

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

APPLICATION NO. A/YL-PN/70

- Applicant** : Mr. Mak Chi Ming
- Site** : Lot 19 in D.D.135 and Adjoining Government Land, Sheung Pak Nai, Yuen Long, New Territories
- Site Area** : About 11,214m² (including GL of about 1,083m² or 9.7%)
- 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
- Zonings** : (i) “Coastal Protection Area” (“CPA”) (about 98.6% of the Site)
(ii) Area shown as ‘Road’ (about 1.4% of the Site)¹
- Application** : Renewal of Planning Approval for Temporary Fishing Ground for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary fishing ground for a period of three years at the application site (the Site) (**Plan A-1**) zoned “CPA” on the OZP. 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 planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use with valid planning permission under application No. A/YL-PN/62 until 8.9.2023 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site abuts and is accessible from Nim Wan Road (**Plan A-1**), with the ingresses/ egresses located at the east and south of the Site (**Drawing A-1**). As shown on the layout plan at **Drawing A-1**, three structures of one storey (about 2.5m in height) and with a total floor area of about 274m² are proposed for rain shelters and toilet uses. 25 parking spaces for private cars are provided.

¹ A minor portion at the southeast of the Site (about 1.4%) falls within an area shown as ‘Road’ of the OZP, which can be considered as minor boundary adjustment in accordance with the covering Notes of the OZP.

- 1.3 According to the applicant, the pond at the Site will continue to be used as fishing ground. As indicated in the submission, the operation hours would be between 8 a.m. to 9 p.m. daily, including public holidays. The estimated daily number of visitors would be about 10 on Mondays to Saturdays and about 30 on Sundays. Apart from private cars, visitors can also access the Site by green minibuses and taxis. Sewage generated from the Site is discharged to a septic tank to the south outside the Site. Drainage facilities, peripheral landscape plantings and fire service installations (FSIs) are also provided. The layout plans, drainage plan, sewerage plan, landscape plan and FSIs plan are at **Drawings A-1 to A-5** respectively.
- 1.4 The Site is involved in six previous applications for temporary fishing ground, including five approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2008 to 2020 (details at paragraph 6 below). Compared with the last approved previous application No. A/YL-PN/62, the current application is submitted by the same applicant for the same use at the same site, with the same layout and development parameters.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 13.6.2023 (**Appendix I**)
 - (b) Further Information (FI) dated 24.7.2023 (**Appendix Ia**)
[accepted and exempted from publication requirements]

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 can be summarised as follows:

- (a) there has been no complaint pertaining to the fishing ground in the past three years;
- (b) all the planning conditions, including those on the provision of drainage facilities and FSIs have been complied with;
- (c) the temporary fishing ground would not cause adverse traffic, noise, water quality, visual and landscape impacts on the surrounding areas; and
- (d) potable water supply is available at the Site.

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 No. 31A on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Ordinance (TPB PG-No. 31A) by obtaining consent from the “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

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

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in six previous applications for temporary fishing ground. Five of them were approved while one was rejected. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

Approved applications

- 6.2 Application No. A/YL-PN/16, 28, 39, 50 and 62 for temporary fishing ground for a period of three years were approved with conditions by the Committee between 2008 and 2020 mainly on considerations that pond filling is not required and the existing pond at the Site would not be adversely affected; significant change to the landscape character arising from the proposed use was not anticipated; the applied use was not incompatible with the surrounding land uses; concerned government departments had no objection to the application and the technical concerns could be addressed by approval conditions. All the time-limited approval conditions under the previous applications have been complied with. The last previous application No. A/YL-PN/62 is valid until 8.9.2023.

Rejected Application

- 6.3 Application No. A/YL-PN/7 for temporary fishing ground for a period of three years was rejected by the Committee in on 27.2.2004 mainly on grounds of no information to demonstrate no adverse traffic and hygiene impact on the surrounding areas, and setting undesirable precedent.

7. Similar Applications

- 7.1 Within the same “CPA” zone, there are three similar applications for temporary fishing ground in the past five years. All of them were approved with conditions by the Committee. Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-PN/57, 66 and 67 involving two sites were approved with conditions by the Committee between 2019 and 2022 mainly on similar considerations as summarised in paragraph 6.2 above.

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

8.1 The Site:

- (a) is largely a pond with boardwalk erected along its periphery. Two rain shelters and a converted-container structure were erected at the south;
- (b) is being used for the applied use with valid planning permission under application No. A/YL-PN/62 until 8.9.2023; and
- (c) directly abuts and is accessible from Nim Wan Road.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action:

- (a) to the north are ponds, grassland and vacant land;
- (b) to the southeast across Nim Wan Road are a pond, a plant nursery and residential dwellings; and
- (c) to the southwest are an open storage yard, a plant nursery, cultivated agricultural land, vacant land and unused land.

9. 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 are essential infrastructure projects with overriding public interest may be permitted.

10. Comments from Relevant Government Departments

All departments consulted 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 IV and V** respectively.

11. Public Comment Received During Statutory Publication Period

On 23.6.2023, 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 planning approval for temporary fishing ground for a period of three years zoned “CPA” on the OZP (**Plan A-1**). Although the applied use is not entirely in line with the planning intention of the “CPA” zone, the existing pond at the Site will not be adversely affected by the applied use. Noting no filling of pond is involved, the Director of Agriculture, Fisheries and Conservation has no objection to the application from nature conservation and fisheries perspectives. Also, the Chief Town Planner/Urban Design and Landscape has no objection as significant change to the landscape character arising from the development is not anticipated. 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” zone.
- 12.2 The Site is located in an area predominated by ponds and agricultural uses. The applied use which does not involve any pond filling works is considered not incompatible with the surrounding environment and land uses.
- 12.3 The application is generally in line with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-PN/62, the applicant has complied with all the approval conditions as of today, and the three-year approval period sought is reasonable and of the same time frame as the previous approval.
- 12.4 Other concerned government departments including the Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Service Department and Director of Fire Services have no objection to/adverse comment on the application. The applied use would unlikely generate significant adverse environmental, traffic, drainage and fire safety impacts on the surroundings. To address the technical requirements of the concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below.
- 12.5 The Committee had approved five previous applications (No. A/YL-PN/16, 28, 39, 50 and 62) for the same applied use at the Site (**Plan A-1**). There are also three approved similar applications (No. A/YL-PN/57, 66 and 67) involving two sites for temporary fishing ground within the same “CPA” zone in the past five years (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary fishing ground could be tolerated for a further period of three 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 three years and be renewed from 9.9.2023 to 8.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (b) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (c) the submission of a condition 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 **9.12.2023**;
- (d) all existing trees on the Site shall be maintained in good condition at all times during the planning approval period;
- (e) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (a) if any of the above planning condition (a), (b), (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
- (b) if the above planning condition (c) 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.

[Conditions (a) to (d) are all the same as the previous application No. A/YL-PN/62. A previous condition on operational hours is removed, whilst condition (e) is added as per the latest requirements.]

Advisory Clauses

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

- 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 "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. 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 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 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 with attachments received on 13.6.2023
Appendix Ia	FI dated 24.7.2023
Appendix II	Relevant extracts of Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use of Development' (TPB PG-No. 34D)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Fresh Water Mains Record Plan
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Sewerage Plan
Drawing A-4	Landscape Plan
Drawing A-5	FSIs Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**