

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

APPLICATION NO. A/YL-PN/78

- Applicant** : Mr. Mak Por
- Site** : Lots 80 (Part) and 81 (Part) in D.D.135 and Adjoining Government Land (GL), Ha Pak Nai, Yuen Long, New Territories
- Site Area** : About 5,410m² (including GL of 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 three years at the application site (the Site) (**Plan A-1a**) zoned “AGR” on the OZP. According to the Notes for the “AGR” zone, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use requiring planning permission from the Town Planning Board. The Site is currently used for the applied use with planning permission under application No. A/YL-PN/65 valid until 20.7.2024 (**Plans A-2, A-4a to A-4d**).
- 1.2 No change is proposed to the layout and operation of the fishing ground. To recapitulate, the Site is accessible from Nim Wan Road via a local track. The ingress/egress is located at the south of the Site (**Plan A-2**). As shown on the layout plan at **Drawing A-1**, one single-storey structure (about 2.1m in height) with a total floor area of about 40.1m² is proposed for rain shelter use. No parking or loading/unloading space is provided.
- 1.3 According to the applicant, the pond at the Site will be retained and will continue to be used as fishing ground. As indicated in the submission, the operation hours would be between 7 a.m. to 9 p.m. daily, including public holidays. The estimated daily number of visitors would be about 4 to 8 on weekdays and about 10 to 20 on weekends and public holidays. Visitors can access the Site by green minibuses.

1.4 The Site is involved in seven previous applications for fishing ground (on temporary or permanent basis) with or without barbecue spot approved by the Rural and New Town Planning Committee (the Committee) of the Board or the Board on review between 2004 and 2021 (details at paragraph 6 below). Compared with the last approved previous application No. A/YL-PN/65, 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 received on 11.3.2024 (Appendix I)
- (b) Further Information (FI) received on 2.5.2024 (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) in face of keen competition in the fish farming industry, income has been declining. It is difficult to sustain a living and afford basic expenses of the family; and
- (b) the applicant wishes to operate the fishing ground in order to be self-reliant.

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. 31B) by obtaining consent from the “current land owners” on 2.2.2024. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31B are 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. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

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

6. Previous Applications

6.1 The Site is involved in seven previous applications for fishing ground (on temporary and permanent basis) with or without barbecue spot. All of them were approved by

the Committee or the Board on review between 2004 and 2021. Details of these previous applications are summarised in **Appendix III** and their boundaries are shown on **Plan A-1b**.

- 6.2 Application No. A/YL-PN/8 for fishing ground and barbecue spot was approved with conditions by the Board on review on a temporary basis for three years in 2004 mainly on sympathetic considerations that recreational fishing use was compatible with the planning intention from preservation of fish ponds point of view; recreational fishing activities would unlikely cause significant adverse traffic and environmental impacts on the area; and the applicant had made genuine effort to improve the conditions of the site.
- 6.3 Six subsequent applications (No. A/YL-PN/20, 32, 37, 43, 54 and 65) for permanent or temporary fishing ground were approved with conditions by the Committee on a temporary basis for a period of three years each between 2008 and 2021 mainly on considerations that approving the application would not undermine the long-term planning intention; the applied use was considered not incompatible with the surrounding land uses; concerned government departments have no objection to/no adverse comment on the application and the technical concerns could be addressed by imposing approval conditions. For the last previous application No. A/YL-PN/65, all time-limited approval conditions have been complied with and the permission is valid until 20.7.2024.

7. Similar Application

There is no similar application within the same “AGR” zone of the OZP.

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

8.1 The Site is:

- (a) a pond with structures erected along the pond bund;
- (b) being used for the applied use with planning permission under application No. A/YL-PN/65 valid until 20.7.2024; and
- (c) accessible from Nim Wan Road via a local track.

8.2 The surrounding areas are predominated by shrubland/grassland and ponds. Other uses such as recreational use, storage yards, residential dwellings, agricultural use and graves are also found in the vicinity. Some of the uses are covered by valid planning permissions, whilst some are suspected unauthorized development subject to planning enforcement action.

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

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 Comments Received During Statutory Publication Period

On 22.3.2024, 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 place of recreation, sports or culture (fishing ground) for a period of three years at the Site zoned “AGR” on the OZP. The applied use will retain the existing pond for recreational fishing ground and no pond filling is proposed. In this regard, the Director of Agriculture, Fisheries and Conservation has no strong view on the application. As such, approval of the application on a temporary basis for a further period of three years would not jeopardise the long-term planning intention of the “AGR” zone.
- 12.2 The Site is located in an area predominated shrubland/grassland and ponds. To the immediate west of the Site across Nim Wan Road are ponds used as a temporary fishing ground which is covered by valid planning permission. The applied use is considered not incompatible with the surrounding environment.
- 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/65; adverse planning implications arising from the renewal of the planning approval are not envisaged; all time-limited approval conditions under the previous application have been complied with; and the three-year approval period sought is the same as the previous approval and is considered reasonable.
- 12.4 The Chief Town Planner/Urban Design and Landscape of the Planning Department has no comment on the application as significant impact on the existing landscape resource and character is not anticipated. Other concerned government departments consulted including the Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) have no objection to/no adverse comment on the application from environmental, traffic, drainage and fire safety points of view respectively. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 13.2 below.
- 12.5 The Site is the subject of seven previous approvals for the same applied use. Approval of the current renewal application is in line with the previous decisions of the Committee/the Board.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.
- 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 21.7.2024 until 20.7.2027**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) 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 **21.10.2024**;
- (c) 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 **21.1.2025**;
- (d) in relation to (c) 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 **21.4.2025**;
- (e) if the above planning condition (a) is not complied with during the 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 condition (b), (c) or (d) 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), (b), (c) and (d) are the same as the previous application No. A/YL-PN/65. Previous conditions on operation hours and maintenance of existing trees have been removed as per the latest practice.]

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 "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 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 received on 11.3.2024
Appendix Ia	FI received on 2.5.2024
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 Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Site Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
MAY 2024**