

**TPB Paper No. 10768**

**For Consideration by  
the Town Planning Board on 3.9.2021**

**REVIEW OF APPLICATION NO. A/YL-LFS/393**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Filling of land for Permitted Agricultural Use  
in “Coastal Protection Area” Zone,  
Lot 7 in D.D. 129, Lau Fau Shan, Yuen Long, New Territories**

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Lot 7 in D.D. 129, Lau Fau Shan, Yuen Long, New Territories**

**1. Background**

- 1.1 On 16.3.2021, the applicant, Tang Tak Hong, sought planning permission for proposed filling of land for permitted agricultural use at the application site (the Site) under section 16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Coastal Protection Area” (“CPA”) on the draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10 (**Plan R-1**). According to the Notes of the OZP for the “CPA” zone, ‘Agricultural Use (other than Plant Nursery)’ is always permitted. However, any filling of land/pond or excavation of land, including that to effect a change of use to those specified in Columns 1 and 2, requires planning permission from the Town Planning Board (the Board).
- 1.2 On 14.5.2021, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
  - (a) the proposed filling of land was not in line with the planning intention of the “CPA” zone which was to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. There was a general presumption against development in this zone. There was no strong planning justification in the submission for a departure from the planning intention;
  - (b) the applicant failed to demonstrate that the proposed filling of land would not have significant adverse landscape impacts on the surrounding areas; and
  - (c) approval of the application would set an undesirable precedent for similar applications for filling of land within the “CPA” zone and the cumulative effect of approving such similar applications would result in a general degradation of the natural environment of the area.
- 1.3 The Site is currently not subject to active enforcement action. However, the Site formed part of a previous unauthorised development (UD) involving filling of land (i.e. hard-paved with concrete and bitumen). Enforcement Notice (EN) was issued on 9.8.2018 requiring the discontinuance of the UD, and Reinstatement Notice (RN) was issued on 9.1.2019 requiring the reinstatement of the concerned land. As the concerned land had not been reinstated upon the expiry of the RN, the RN recipients were prosecuted and convicted in June and July 2020. The concerned land had subsequently been reinstated and therefore, Compliance Notices for the EN and RN were issued on 29 and 30.10.2020 respectively.

1.4 For Members' reference, the following documents are attached:

- |     |   |           |
|-----|---|-----------|
| (a) | RNTPC Paper No. A/YL-LFS/393                              | (Annex A) |
| (b) | Extract of minutes of the RNTPC Meeting held on 14.5.2021 | (Annex B) |
| (c) | Secretary of the Board's letter dated 28.5.2021           | (Annex C) |

## 2. Application for Review

2.1 On 7.6.2021, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application (**Annex D-1**).

2.2 In the section 17 review application, the applicant has submitted a revised layout (**Drawing R-1**) and proposed to reduce the extent of the land filling works by reducing the concrete-paved area from about 360m<sup>2</sup> (or 47% of the Site) to about 160m<sup>2</sup> (or 21% of the Site), and eliminating all the soil-filled area (originally about 398m<sup>2</sup> or 53% of the Site). The thickness of the concrete pavement is also proposed to be reduced from about 0.3m to about 0.05m. As part of the fish farm development, the total number of structures is reduced from 9 to 8 (including 3 for fish farm storage, 1 for electricity meter room, and 4 for shade sheds for fish ponds/tanks). The dimensions of the structures remain unchanged<sup>1</sup>. The number of fish ponds<sup>2</sup> increased from 6 to 11 whilst fish tanks decreased from 9 to 8. Amongst them, 5 fish ponds, 2 fish tanks and 3 shade sheds are proposed to be placed on the concrete-paved area while the remaining 6 fish ponds, 6 fish tanks and 1 shade shed are proposed to be placed on the bare ground without concrete or soil filling. A comparison of the major development parameters between the original proposal under section 16 application and the current proposal under section 17 review application is summarised as follows (see also **Drawing A-2** for comparison between the section 16 application scheme and the review application scheme):

	<b>Original Proposal under section 16 Application (a)</b>	<b>Current Proposal under section 17 Review Application (b)</b>	<b>Difference (b)-(a) (%)</b>
<b>Site Area (about)</b>	758.8m <sup>2</sup>	758.8m <sup>2</sup>	No change
<b>Area of land filling (about)</b>	758m <sup>2</sup>	160m <sup>2</sup>	-598m <sup>2</sup> (-78.9%)
Concrete	360m <sup>2</sup>	160m <sup>2</sup>	-200m <sup>2</sup> (-55.6%)
Soil	398m <sup>2</sup>	0m <sup>2</sup>	-398m <sup>2</sup> (-100%)
<b>Thickness of filling (about)</b>	0.3m	0.05m	-0.25m (-83.3%)
<b>No. of structures</b>	9	8	-1 (-11.1%)
<b>No. of fish ponds</b>	6	11	+5 (+83.3%)
<b>No. of fish tanks</b>	9	8	-1 (-11.1%)

<sup>1</sup> The dimensions of the 3 storage rooms measure 6.1m(L) × 2.4m(W) × 4.3m(H); the 1 electricity meter room measures 1.2m(L) × 1m(W) × 2.5m (H); and the 4 shade sheds measure 5m(L) × 7m(W) × 4.3m(H), 8m(L) × 11m(W) × 4.3m(H), 6m(L) × 9m(W) × 4.3m(H) and 7m(L) × 9m(W) × 4.3m(H) respectively.

<sup>2</sup> According to the applicant, the 11 fish ponds were made by canvas supported with iron frames or wooden slabs. The 8 fish tanks were made by plastic and iron frames (**Annex D-2**).

2.3 In support of the review application, the applicant has submitted the following documents:

- (a) Letter received on 7.6.2021 applying for a review with a revised layout (**Annex D-1**)
- (b) Further Information dated 6.8.2021 rectifying the error on the area of the proposed land filling works and providing details of the fish farm (*exempted from the publication requirement*) (**Annex D-2**)

### 3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the submission at **Annexes D-1** and **D-2**. They can be summarised as follows:

- (a) Fish feed and faeces are organic substance. The sewage generated from the fish farm will be used for irrigating farm produce or disposed to the sea. Being organic, the sewage is nutrient for the mangrove and will not adversely affect the environment of the surroundings.
- (b) The height of the structures cannot be higher than 4.3m as required by the Lands Department (LandsD). The landscape of the surroundings will not be significantly affected.
- (c) The soil-filled area previously proposed will be eliminated altogether in order to reduce the impact on the surroundings as far as possible. Only concrete filling for an area of about 160m<sup>2</sup> in a thickness of 0.05m is applied for.
- (d) The concrete filling is for (i) providing a stable platform for deposition of fish ponds/tanks; (ii) facilitating the movement of fish ponds/tanks for fish grading/sorting and cleaning; (iii) facilitating the movement of fish feed and tools; (iv) drying of fish ponds/tanks filters and associated components; (v) serving as the foundation of the poles of shade sheds and preventing the sheds from being blown down during typhoons; and (vi) keeping the ground relatively dry which prevents electric shock.
- (e) The applicant was evicted by the landowner(s) of the adjoining lot (i.e. Lot 9 in D.D.129), due to which he moved to the Site. The relocation of fish farm within “CPA” zone as such is rare and would not set any undesirable precedent.

### 4. **The Section 16 Application**

The Site and Its Surrounding Areas (**Plans R-1, R-2**, aerial photo on **Plan R-3a** and site photos on **R-4a** and **R-4b**)

4.1 The situation of the Site and its surrounding areas at the time of the consideration of the section 16 application by the RNTPC was described in paragraphs 7.1 and 7.2 of **Annex A**. There have been some minor changes in the situation since then.

4.2 The Site is:

- (a) currently partly paved with bricks without valid planning permission. The

remaining portion is largely soil ground partly overgrown with vegetation;

- (b) partly erected with shade sheds, and deposited with fish ponds, fish tanks and other miscellaneous items. A temporary structure used for electricity meter room and a converted container were erected/deposited at the east and south respectively; and
- (c) located to the north of Deep Bay Road near the Deep Bay coast (about 70m), and is accessible via a track on Government Land and private lots branching off Deep Bay Road.

4.3 The surrounding areas have the following characteristics:

- (a) to the north, northeast and northwest are ponds, shrubland/grassland and a patch of vacant land. To the further north is the coastline of Deep Bay;
- (b) to the south and southeast are scrubland/grassland and fallow agricultural land; and
- (c) to the west is the village settlement of Sha Kiu Tsuen. To the further southwest are ruins and residential dwellings.

#### Planning Intention

- 4.4 There has been no change in the planning intention of the “CPA” zone as mentioned in paragraph 8 of **Annex A**.
- 4.5 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.
- 4.6 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

#### Previous Application

- 4.7 There is no previous application at the Site.

#### Similar Applications

- 4.8 There were 3 similar applications (No. A/YL-LFS/30, 386 and 391) for filling of pond and/or land for various uses within the same “CPA” zone at the time of considering the section 16 application, which was mentioned in paragraph 6 at **Annex A**. Since then, there has been one additional similar application (No. A/YL-LFS/401) for proposed excavation of land for permitted agricultural use and proposed utility installation for private project with excavation and filling of land within the same

“CPA” zone. Details of the applications are summarised at **Annex E** and their locations are shown on **Plan R-1**.

- 4.9 Application No. A/YL-LFS/30 for proposed pond filling and agricultural use (planting of fruit tree) was rejected by the RNTPC on 28.8.1998 on the grounds that the proposed development did not comply with the then Town Planning Board Guidelines No. 12A for “Application for Developments within Deep Bay Buffer Zone”; there was insufficient information to demonstrate that the proposed development would not have significant adverse ecological and drainage impacts on the surrounding areas; and the proposed development would set an undesirable precedent for similar applications.
- 4.10 Application No. A/YL-LFS/386 for proposed filling of land and pond to avoid mosquito breeding was rejected by the Board upon review on 7.5.2021 on the grounds that the proposed filling of land and pond was not in line with the planning intention of “CPA” zone and the proposed filling of land and pond would set an undesirable precedent for similar applications.
- 4.11 Application No. A/YL-LFS/391 for proposed filling and excavation of land for permitted agricultural use was rejected by the RNTPC on 30.4.2021 on similar grounds as mentioned in paragraph 4.10 above and that the applicant failed to demonstrate no significant adverse landscape impacts on the surrounding areas.
- 4.12 Application No. A/YL-LFS/401 for proposed excavation of land for permitted agricultural use and proposed utility installation for private project with excavation and filling of land was rejected by the RNTPC on 23.7.2021 on similar grounds as mentioned in paragraph 4.10 above.

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

- 5.1 For the review application, the following government departments have been further consulted and their updated comments are summarised as follows:

### **Landscaping**

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

- (a) She maintains her view of reservation on the application from landscape planning perspective.
- (b) The Site (about 758.8m<sup>2</sup>) is located near the intertidal coast of Deep Bay and falls within an area zoned “CPA” on the OZP. The Site is not subject to any previous planning application. The Site is currently preoccupied by vegetation. There are lush vegetation and some ponds in the surroundings with some temporary structures found to the west of the Site. In the revised layout of the section 17 review application, the proposed concrete paved area (of about 0.05m in thickness) is reduced from 360m<sup>2</sup> to 160m<sup>2</sup>, while the proposed filling of land with soil is eliminated. The revised layout also includes 8 temporary structures (as compared to 9 under the section 16 application) up to 4.3m high, including 3 storage rooms for ancillary uses, 1 electricity

meter room, and 4 canopies with different sizes.

- (c) With the concrete filling proposed under the application, though with reduced area, it would inevitably alter the natural coastline and sensitive coastal natural environment. The cumulative effect of approving similar applications would further alter the natural coastline and sensitive coastal natural environment and affect the integrity of the “CPA” zone.
- (d) With reference to the aerial photo of 2021 (**Plan R-3a**), the Site is located in an area of rural coastal plain landscape character predominated by ponds, mangroves, vacant lands and woodlands with temporary structures and warehouses in the proximity. According to the site photos taken on 18.6.2021, the Site is mainly vacant with rubbles, weeds, and a group of *Musa x paradisiaca* (香蕉樹) at the southwestern corner of the Site. The proposed concrete filling of land is considered not compatible with the landscape character of the surrounding area.
- (e) By comparing the aerial photos of 2018 and 2016 (**Plans R-3c and R-3d**), vegetation clearance, unauthorised filling of land and hard paving were observed within the Site. Significant landscape impact has taken place. Given that there is no similar application previously approved within the same “CPA” zone, there is concern that approval of the planning application may encourage other similar applications to blanket clear the site prior to obtaining planning approval within the area. The cumulative impact of which would result in further degradation of the landscape quality of the surrounding environment in the “CPA” zone.

### **Nature Conservation and Fisheries**

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

- (a) She has no objection to the review application with the proposal of reducing the area to be filled with concrete from fish culture perspective. The applicant is reminded to apply for agricultural structures with LandsD.
- (b) As the Site is mainly a bare ground with some temporary structures, she also has no strong view on the review application from the ecological perspective.
- (c) The justifications for concrete filling by the applicant are noted. While a flat and stable ground surface would facilitate the management of fish farm, such as maintaining water level, and gaining easy access to feeding and harvesting, concrete filling is one of but many methods in making available such flat and stable ground surface. Provided that they are strong enough to maintain the fish ponds/tanks loaded with water, any form of hard-surfaced plate, such as wooden slabs, plastics floorboard or sheet metal) can serve the same purpose. Indeed, deposition of fish ponds/tanks on soil ground clear of vegetation or

covered with anti-weed cloth is also feasible. In this connection, plastic and fiberglass ponds/tanks are more durable and commonly used by fish farms in Hong Kong.

- (d) There are various ways in handling with multiple tanks for such purposes as fish grading/sorting depending on availability of space, including making use of hand nets, buckets and hand trolleys to transfer sorted/graded fish from one pond/tank to another. For the purpose of cleaning, fish ponds/tanks can be installed with drainage outlets near the bottom or with submerged water pumps to drain off water. Removing the entire fish ponds/tanks for cleaning purpose may not be necessary. Whilst shade sheds is recommended to reduce the heat stress in fish culture, it is not limited to concrete filling for erection of shade sheds.

5.2 The following government departments maintain their previous comments on the section 16 application in paragraph 9.1 of **Annex A**, which are recapitulated below:

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lot (OSAL) 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) Letter of Approval (LoA) has been given on 4.12.2019 for the erection of agricultural structures on the Site. Furthermore, Certificates of Exemptions (CoEs) in respect of Building Works, Site Formation Works (not exceeding 3.4 mPD level) and Drainage Works have been given on 8.5.2020 for the construction of the aforesaid structures thereon.
- (c) It is noted that the proposed filling of land is for agricultural use. His office has no objection to the proposed filling of land from the lease perspective subject to compliance of the conditions stipulated in the LoA and CoEs.

### **Environment**

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

- (a) He has no objection to the application.
- (b) No substantiated environmental complaint pertaining to the Site has been received in the past three years.
- (c) The applicant should be reminded of the detailed comments at **Annex G**.



## **Drainage**

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated requiring the applicant to submit a drainage proposal including flood mitigation measures, to implement and maintain the proposed flood mitigation measures/drainage facilities to the satisfaction of his department. The flood mitigation measures shall be completed upon the completion of land filling works.
- (c) The applicant should be reminded of the detailed comments at **Annex G**.

### 5.3 The following government departments maintain their previous comments on the s.16 application as stated in paragraph 9.1 of **Annex A**:

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (c) Director of Fire Services (D of FS);
- (d) Commissioner for Transport (C for T);
- (e) District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD); and
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

### 5.4 The following government departments maintain their previous views of having no comment on the review application:

- (a) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (b) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police (C of P); and
- (e) Principal Project Coordinator/Special Duty, DSD (PPC/SD, DSD).

## **6. Public Comments on the Review Application Received During Statutory Publication Period**

- 6.1 On 18.6.2021, the review application was published for public inspection. During the statutory public inspection period, 2 public comments from the Kadoorie Farm & Botanic Garden Corporation and an individual (**Annexes F-1** and **F-2**) were received objecting to the review application on similar grounds as per the section 16 application stage, which are summarised as follows:

- (a) the approval of the review application would set a precedent and open the gate for similar cases in the subject “CPA” zone. The Board is urged to consider the potential cumulative impact of approving this review application;
  - (b) the proposed development in no way conserves the natural landscape as intended in the subject “CPA” zone. The need for concrete filling for fish farming within an area predominated by natural ponds is questionable; and
  - (c) Hong Kong must take climate change seriously and shore up coastal barriers.
- 6.2 A total of 4 public comments, all objecting to the application, were received at the section 16 application stage as set out in paragraph 10 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The application is for a review of the RNTPC’s decision on 14.5.2021 to reject the subject application for proposed filling of land for permitted agricultural use at the Site zoned “CPA” on the OZP (**Plan R-1**). The application was rejected for the reasons that it was not in line with the planning intention of the “CPA” zone and there was no strong justification in the submission for a departure from the planning intention; the applicant failed to demonstrate that the proposed filling of land would not have significant adverse landscape impact on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “CPA” zone.
- 7.2 In the section 17 application, the applicant proposes to reduce the scale of the land filling works by reducing the concrete-paved area from 360m<sup>2</sup> (or 47% of the Site) to about 160m<sup>2</sup> (or 21% of the Site) and eliminating all the soil-filled area (originally about 398m<sup>2</sup> or 53% of the Site). Since the consideration of the subject application by the RNTPC on 14.5.2021, there has been no major change in planning circumstances. Planning considerations and assessments on the review application are appended below.

### Planning Intention of the “CPA” Zone

- 7.3 The Site falls within the “CPA” zone of the OZP, which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. 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. Whilst ‘Agricultural Use (other than Plant Nursery)’ is always permitted within the “CPA” zone, filling of land within “CPA” zone is subject to planning permission as it may cause adverse drainage impact on the adjacent areas and adverse impact on the natural environment. The proposed concrete filling is not in line with the planning intention of the “CPA” zone.

### Justifications for the Need for Concrete Filling

- 7.4 In support of the review application, the applicant claimed that the proposed concrete filling is for, amongst others, providing a stable platform for deposition of fish ponds/

tanks, facilitating the movement of fish ponds/tanks for fish grading/sorting and cleaning, and providing foundation of shade sheds. Having said that, according to the revised layout of the fish farm (**Drawing R-1**), amongst the total of 11 fish ponds, 8 fish tanks and 4 shade sheds, 6 fish ponds, 6 fish tanks and 1 shade shed are proposed to be placed on the bare ground without concrete filling, which are contradictory to the claims of the applicant. Moreover, DAFC advised that, for the purpose of fish farming, there are alternative ways other than concrete filling for making available flat and stable ground surface for placing fish ponds/tanks, handling with multiple fish ponds/tanks for fish grading/sorting, fish ponds/tanks cleaning, and erection of shade sheds. As such, the applicant fails to demonstrate the genuine need for the proposed concrete filling, albeit with reduced scale, and whether there are other alternatives for the applicant to carry out fish farming without affecting the sensitive coastal environment in the “CPA” zone. Hence, there is no strong planning justification in the submission for a departure from the planning intention of the “CPA” zone.

#### Land Use Compatibility

- 7.5 The Site is located near the Deep Bay coast and in an area of rural coastal plain landscape character predominated by ponds, shrubland/grassland and fallow agricultural land, with village settlements of Sha Kiu Tsuen located to the west of the Site. The proposed concrete filling is considered not compatible with the surrounding areas.

#### Adverse Landscape Impact on the Surrounding Areas

- 7.6 CTP/UD&L, PlanD has reservation on the application from landscape planning perspective. Since the Site is situated near the intertidal coast of Deep Bay, the proposed filling of land will unavoidably change the natural coastline of Deep Bay and sensitive coastal natural environment. It is also noted that vegetation clearance, unauthorised filling of land and hard-paving have been observed within the Site since 2016 (**Plans R-3a to R-3d, R-4a and R-4b**). Significant landscape impact has taken place. Given that there is no similar application previously approved within the same “CPA” zone, the proposed filling of land would likely raise concern that approval of the planning application may encourage other similar applications to blanket clear the site prior to obtaining planning approval within the area. The cumulative impact of which would result in further degradation of the landscape quality of the surrounding environment in the “CPA” zone.

#### Setting Undesirable Precedent

- 7.7 No previous approval has been granted for the Site. There are 4 similar applications (No. A/YL-LFS/30, 386, 391 and 401) for filling and/or excavation of land and/or filling of pond for different uses within the same “CPA” zone, which were all rejected by the RNTPC or the Board upon review on similar grounds of not in line with the planning intention of “CPA” zone; insufficient information to demonstrate that the proposed development would not have significant adverse ecological, drainage and/or landscape impacts on the surrounding areas; and setting of undesirable precedent. Although the applicant claimed that the proposal is a relocation of fish farm from Lot 9 in D.D.129 within the same “CPA” zone, there is no record on any approval of land filling at that lot. Hence, approval of the application would set an undesirable precedent and encourage proliferation of similar filling of land within the same “CPA” zone which would frustrate its planning intention. The cumulative effect of approving

such similar applications would result in general degradation of the natural environment of the area. On the other hand, rejecting the current application is in line with previous decisions of the RNTPC/Board.

#### Other Departmental Comments

- 7.8 Other relevant Government departments, including DEP, CE/MN of DSD and C for T have no objection to or no adverse comment on the application. The proposed filling of land would unlikely cause significant adverse environmental, drainage and traffic impact to the surrounding areas.

#### Public Comments

- 7.9 Regarding the public comments objecting to the review application on the grounds as detailed in paragraph 6 above, the planning considerations and assessments in paragraphs 7.1 to 7.8 above are relevant.

### **8. Planning Department's Views**

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments mentioned in paragraph 6 and given that there has been no major change in the planning circumstances since the consideration of the subject application by the RNTPC on 14.5.2021, the Planning Department maintains its previous view of not supporting the review application for the following reasons:
- (a) the proposed filling of land is not in line with the planning intention of the “CPA” zone which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment 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;
  - (b) the applicant fails to demonstrate that the proposed filling of land would not have significant adverse landscape impacts on the surrounding areas; and
  - (c) approval of the application would set an undesirable precedent for similar applications for filling of land within the “CPA” zone and the cumulative effect of approving such applications would result in a general degradation of the natural environment of the area.
- 8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until **3.9.2025**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no part of the Site shall be filled other than concrete to a thickness exceeding 0.05m, as proposed by the applicant;

- (b) the submission of a drainage proposal including flood mitigation measures before commencement of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) in relation to (b) above, the implementation of the drainage proposal including flood mitigation measures upon completion of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (d) if any of the above planning conditions (b) or (c) is not complied with before commencement or upon completion of the land filling works, respectively, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

#### Advisory Clauses

The recommended advisory clauses are attached at **Annex G**.

### **9. Decision Sought**

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission.

### **10. Attachments**

<b>Drawing R-1</b>	Proposed Layout Plan
<b>Drawing R-2</b>	Comparison between the proposed layout under the original section 16 application and the section 17 review application
<b>Plan R-1</b>	Location Plan with similar applications
<b>Plan R-2</b>	Site Plan
<b>Plans R-3a to 3d</b>	Aerial Photos taken in 2021, 2020, 2018 and 2016
<b>Plans R-4a and 4b</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/YL-LFS/393
<b>Annex B</b>	Extract of minutes of the RNTPC Meeting held on 14.5.2021
<b>Annex C</b>	Secretary of the Board's letter dated 28.5.2021
<b>Annex D-1</b>	Letter received on 7.6.2021 from the applicant applying for review
<b>Annex D-2</b>	Further Information dated 6.8.2021
<b>Annex E</b>	Similar applications within the same "CPA" zone on the Lau Fau Shan and Tsim Bei Tsui OZP

**Annexes F-1 and 2**

Public comments received during statutory publication  
period of the review application

**Annex G**

Advisory clauses

**PLANNING DEPARTMENT  
SEPTEMBER 2021**