

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

**APPLICATION NO. A/YL-NTM/349**

|                           |  |
|---------------------------|--|
| <b><u>Applicant</u></b>   | : Wah Sang (China – Hong Kong) Limited represented by Metro Planning and Development Company Limited |
| <b><u>Site</u></b>        | : Lot 2385 (Part) in D.D. 102, and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long           |
| <b><u>Site Area</u></b>   | : About 880 m <sup>2</sup> (including GL of about 27 m <sup>2</sup> )                                |
| <b><u>Lease</u></b>       | : Block Government Lease (demised for agricultural use)  |
| <b><u>Plan</u></b>        | : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12                                    |
| <b><u>Zoning</u></b>      | : “Open Storage” (“OS”)  |
| <b><u>Application</u></b> | : Proposed Filling of Ponds for Permitted Open Storage Use (Tiles and Metal Construction Equipment)  |

**1. The Proposal**

- 1.1 The applicant seeks planning permission for filling of pond at the application site (the Site) for permitted open storage use (tiles and metal construction equipment) (**Plan A-1**). The Site falls within areas zoned “OS” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes of the OZP, ‘open storage (not elsewhere specified)’ is a Column 1 use always permitted within “OS” zone. However, any filling of pond, including that to effect a change of use to any of those specified in Columns 1 and 2 or uses/developments always permitted under the covering Notes (except public works co-ordinated or implemented by Government, and maintenance, repair or rebuilding works), requires planning permission from the Town Planning Board (the Board). The Site is currently a pond with area of about 880m<sup>2</sup>.
  
- 1.2 The applicant proposes to fill the Site (about 880 m<sup>2</sup>) by about 1.5m for permitted open storage use. As shown on the layout plan (**Plan A-2 and Appendix Ia**), the Site is accessible via a local track leading to Kwu Tung Road. In support of the application, the applicant has submitted the following documents:

- (a) Application Form with drainage and landscape proposals received on 17.10.2017 **(Appendix I)**
- (b) Further Information (FI) received on 30.1.2018 and 2.2.2018 clarifying the traffic related issues **(Appendix Ia)**  
*(accepted and exempted from publication and recounting requirements)*

1.3 The application was first received on 17.10.2017. On 8.12.2017, the Committee decided to defer a decision on the application as requested by the applicant pending further submission from the applicant to address departmental comments. On 30.1.2018 and 2.2.2018, the applicant submitted FI and the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) The proposed pond filling is for permitted open storage use under the Ngau Tam Mei OZP which is in line with the planning intention of the “OS” zone (**Drawing A-1**).
- (b) The Site will be hard-paved with 1.5m deep filled material. Filling works will only be carried out between 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays, but not on Sunday and public holidays.
- (c) Planning application No. A/YL-NTM/316 for proposed pond filling for open storage use at the adjoining ponds has been approved by the Committee.
- (d) There is no residence adjoining the Site so that the impact of the proposed pond filling is minimal.
- (e) Drainage and landscape proposals have been submitted to demonstrate that no adverse impacts are anticipated (**Drawing A-2**).

## **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. 31) by posting site notice and publishing newspaper notice. Detailed information would be deposited at the meeting for Members’ inspection. The remaining of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

#### 4. **Background**

The Site is not the subject of any active enforcement action or suspected unauthorized development.

#### 5. **Previous Application**

The Site is the subject of a previous application No. A/YL-NTM/94 for proposed pond filling (for temporary open storage of marble and new sanitary fittings) for a period of 3 years. The application was approved by the Committee on 11.8.2000 on the consideration that there were no adverse comments from concerned government departments, and open storage use was in line with the planning intention of “OS” zone on the OZP. However, the pond filling works had not been commenced during the approval period. The planning permission lapsed on 11.8.2003.

#### 6. **Similar Applications**

6.1 There are 5 similar applications (Nos. A/YL-NTM/245, 302, 304, 305 and 316) for proposed pond filling for permitted open storage/ agricultural uses within the same “OS” zone. They were all approved by the Committee with conditions from 2000 to 2015 mainly on the consideration that relevant government departments had no objection to/adverse comments on drainage, nature conservation, lands, traffic, environmental, water supply services, fire safety and landscape planning perspectives, and open storage use was always permitted within the “OS” zone on the OZP.

6.2 Details of these 5 applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) located to the north of Luk Mei Tsuen;
- (b) accessible via a local track leading to Kwu Tung Road;
- (c) currently a pond with some vegetation; and

7.2 The surrounding areas are predominated by warehouses, open storage, vehicle parks, workshops and unused land:

- (a) to its west are unused land, logistic centre approved under application A/YL-NTM/92 and open storage;

- (b) to its east are a pond and local track; to its further east and northeast across the nullah are vehicle parks, residential dwellings and warehouses;
- (c) to its immediate south and north is a vacant land being formed for open storage use (tiles and metal construction equipments) under planning approval No. A/YL-NTM/316;
- (d) to its further north are canteen, unused land, warehouses, open storage and residential dwellings; and
- (e) to its further south and southwest are unused land, vehicle parks, workshops, residential dwellings and open storage yards.

## **8. Planning Intention**

The planning intention of the “OS” zone is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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

9.1 The following Government departments have been consulted and their views on the application and public comments are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) No permission is given for occupation of GL of about 27m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The site is accessible to Kwu Tung Road through both GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.

- (e) Should planning approval be given to the application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, the applicant has to either exclude the GL from the Site or apply a formal approval prior to the actual occupation of the GL. Such application will be considered by the Lands Department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 Lands Department.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) The access from Kwu Tung Road to the Site is not managed by TD. As such, TD has no comment on the access.

#### 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD is not/shall not be responsible for the maintenance of any village access road connecting the Site and public road such as Ka Lung Road and Kwu Tung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

#### 9.1.4 Comments of the Chief Engineer/Railway Development 1-1, Railway Development Office, Highways Department (CE/RD1-1, RDO, HyD):

- (a) He has no comments on the application from railway development view point.
- (b) The Site neither falls within any administrative route protection boundary, gazetted railway schemes, nor the railway protection boundary of heavy rail systems.

### **Environment**

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

He notes that the subject pond has been abandoned and is located in an "OS" zone on the Ngau Tam Mei OZP. He has no objection to the application for filling of ponds for open storage use.

### **Nature Conservation**

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

- (a) According to DAFC's site visit in 2014, the Site was part of an abandoned pond overgrown with common reed and herbs, and the ecological value of the Site was seemed to be limited. From aerial photos dated March 2017, the condition of the Site appeared to be more or less similar to that in 2014. In this regard, he has no strong view on the application for pond filling from nature conservation perspective.
- (b) Nevertheless, according to their past record, the subject pond and surrounding areas were once active fish ponds but some of them were filled with construction waste in 2010. From fisheries viewpoint, he does not support any filling of ponds, all fish ponds should be preserved for fish culture purposes.
- (c) Should the application be approved, the applicant is advised to adopt necessary measures to avoid disturbing and polluting the watercourse to the west of the Site during filling of the pond and operation.

### **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site falls within an area zoned "OS" on the approved Ngau Tam Mei OZP. The landscape quality of the surrounding is not high, which is mainly occupied by storage yards, temporary structures, vacant lots and tree groups. The proposed development is considered not incompatible with existing land use.
- (c) According to the site photos taken by DPO on 11 November 2017, the pond is partially covered by wild growths and weedy trees (*Leucaena leucocephala* 銀合歡). Significant landscape resources cannot be found on site. Significant adverse landscape impact due to the proposed development is not anticipated.
- (d) Should the application be approved by the Board, the following approval condition is recommended to be included in the planning permission:

The submission and implementation of a landscape proposal to the satisfaction of the Direction of Planning or of the Town Planning

Board.

- (e) Comments on Landscape Plan:
- (i) The applicant should overlay the proposed tree planting with the open storage layout for his review. For sustainable tree growth, the proposed tree should have a min. 3m distance from the structure, min. 1m between any impermeable surfacing and min. 600mm from the boundary fencing. A tree pit of min. 1m x 1m should be provided for at-grade tree planting with a soil depth of 1.2m and free drain bottom.
  - (ii) For trees to be planted along vehicular access within the site, a fence/kerb/bollard at a min. distance of 1m from the tree trunk should be provided between the tree and vehicle to guard against potential physical damages to the trees arising from vehicular movement.
  - (iii) Considering the available planting space within the Site is limited, the applicant should plant small size or columnar trees such as *Bauhinia blakeana* 洋紫荊 or *Garcinia subelliptica* 福木.

### **Drainage**

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

- (a) He has no objection in principle to the application from the public drainage point of view.
- (b) Should the Board approve the application, he would suggest the following approval conditions to be included:
  - (i) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
  - (ii) in relation to (i) above, no pond filling works on site should commence until the implementation of the drainage proposal recommended therein to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) Comments on the drainage proposal submitted by the applicant from the drainage operation and maintenance point of view:
  - (i) A larger drainage plan showing more clear details of the existing drains and the proposed drains (e.g. cover & invert levels of pipes/catchpits and ground levels justifying waterflow etc.) should be provided.

- (ii) Last manhole(s) with details should be specified.
- (iii) Details of discharge point(s) should be specified.
- (d) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (e) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (f) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (g) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (h) The applicant should consult DLO/YL regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future.
- (i) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

### **Geotechnical Engineering**

#### 9.1.9 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) It is noted from the application form submitted by the applicant that the estimated depth of the pond filling will be 1.5m. Given the proposed filling works do not involve formation of any retaining structure, or slope with gradient exceeding 15°, his office has no in-principle geotechnical objection to the application.
- (b) A natural watercourse is located within and along the boundary of the Site. The applicant should be reminded that the proposed filling works would not affect the existing natural watercourse along the site boundary.



**Building Matters**

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

Before any site formation works are to be carried out on the Site, prior approval and consent of the Building Authority are required. An Authorized Person should be appointed as the coordinator for the proposed site formation works in accordance with the Building Ordinance.

**Water Supply**

9.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for construction, operation and maintenance of the inside services within the private lots to WSD's standard.

**Others**

9.1.12 Comments of the Commissioner of Police (C of P):

He has no comment in principle subject to no parallel trading/ general merchandise operations (GMO) activities.

**District Officer's Comment**

9.1.13 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

- (a) There is no village representative in the vicinity of the concerned location, no consultation will be conducted by his office.
- (b) His office has no comment on the application and the local comments should be submitted to the Board directly, if any.

9.2 The following Government departments have no comment on the application:

- (a) Director of Fire Services (D of FS); and
- (b) Project Manager (New Territories West), CEDD (PM(NTW), CEDD).

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

On 24.10.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.11.2017, no public comment was received.

**11. Planning Considerations and Assessments**

- 11.1 The applicant proposes to fill the Site (about 880 m<sup>2</sup>) by about 1.5m for permitted open storage use. The “OS” zone is primarily intended for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the proposed open storage use is always permitted, pond filling at the Site requires planning permission from the Board to ensure that it would not result in adverse drainage impacts on the surrounding areas. In addition, other consequential impacts arising from pond filling should also be taken into account in assessing the pond filling proposal.
- 11.2 Regarding the drainage aspect, the applicant has submitted a preliminary drainage proposal. CE/MN of DSD has no objection in-principle to the application subject to the imposition of approval conditions including the submission and implementation of drainage proposal and no pond filling works on site would be allowed until the accepted drainage proposal have been implemented to the satisfaction of DSD. As such, relevant approval conditions on the above are recommended in paragraph 12.2 (b) and (c) below. Non-compliance with any of these approval conditions would result in revocation of the planning permission and unauthorised development on site would be subject to enforcement action by the Planning Authority.
- 11.3 From fisheries viewpoint, DAFC does not support any pond filling activities as all fish ponds should be preserved for fish culture purpose. However, according to their site visit in 2014 and aerial photos dated 2017, the Site has become part of an abandoned pond overgrown with common reed and herbs since 2014, and the ecological value of the Site is limited. In this regard, he has no strong view on the application from nature conservation perspective. Should the application be approved, the applicant is advised to adopt necessary measures to avoid disturbing and polluting the watercourse to the west of the Site during filling of the pond and operation.
- 11.4 CTP/UD&L of PlanD has no adverse comment on the application from the landscape planning point of view as significant landscape resources cannot be found on site and significant adverse landscape impact due to the proposed development is not anticipated. Other concerned departments including DLO/YL of LandsD, C for T, DEP, CE/C of WSD, H(GEO) of CEDD have no adverse comments regarding land matters, traffic, environmental, water supply and geotechnical engineering perspectives.

- 11.5 The Site is the subject of a previous application No. A/YL-NTM/94 for proposed pond filling for open storage use which was approved by the Committee on 11.8.2000 on the consideration that there were no adverse comments from concerned government departments, and open storage use was in line with the planning intention of “OS” zone on the OZP. Nevertheless, the pond filling works had not been implemented and the planning permission lapsed on 11.8.2003. 5 similar applications for pond filling for permitted open storage/ agricultural uses in the vicinity of the Site were approved by the Committee from 2000 to 2015 on similar considerations. Approval of the application is in line with the Committee’s previous decisions.
- 11.6 There is no public comment received during the statutory inspection period.

## 12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.3.2022, 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 is allowed to be filled to a depth exceeding 1.5m as proposed by the applicant;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) in relation to (b) above, no pond filling works on site should commence until the implementation of accepted drainage proposal recommended therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (e) if the above planning conditions (a), (b), (c) and (d) is not complied with, the approval hereby given should cease to have effect and should be revoked immediately without further notice.

### Advisory clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applicant fails to demonstrate that the development would not generate adverse fisheries, landscape and drainage impacts on the site and the surrounding areas.

### **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

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

### **14. Attachments**

|                               |   |
|-------------------------------|---|
| <b>Appendix I</b>             | Application form with letter received on 17.10.2017           |
| <b>Appendix Ia</b>            | FI received on 30.1.2018 and 2.2.2018                         |
| <b>Appendix II</b>            | Similar Applications within the Same "OS" Zone                |
| <b>Appendix III</b>           | Recommended Advisory Clauses                                  |
| <b>Drawings A-1 &amp; A-2</b> | Layout Plans submitted by applicant                           |
| <b>Plan A-1</b>               | Location Plan with previous applications/similar applications |
| <b>Plan A-2</b>               | Site Plan   |
| <b>Plan A-3</b>               | Aerial Photo  |
| <b>Plans A-4</b>              | Site Photos   |