

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-TCV/11

- Applicant** : Miss Lai Wai Yu
- Site** : Lots 1608 (Part), 1609 (Part), 1610 (Part), 1613 (Part), 1635, 1636, 1639 (Part), 1640, 1641, 1642 (Part) and 1648 (Part) in D.D.1 TC and Adjoining Government Land, Tung Chung Valley, Lantau Island
- Site Area** : About 1,900m² (including Government Land of about 18m²)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tung Chung Valley Outline Zoning Plan (OZP) No. S/I-TCV/2
- Zonings** : “Village Type Development” (about 84%)
[restricted to maximum building height of 3 storeys (8.23m)]

“Other Specified Uses” annotated “Stormwater Attenuation and Treatment Ponds” (about 16%)
- Application** : Temporary Warehouse and Open Storage of Construction Tools, Construction Machinery and Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse and open storage of construction tools, construction machinery and materials for a period of 3 years (**Plan A-1**). The Site falls partly within an area zoned “Village Type Development” (“V”) (about 84%) and partly zoned “Other Specified Uses” annotated “Stormwater Attenuation and Treatment Ponds” (“OU(Stormwater Attenuation and Treatment Ponds)”) (about 16%) on the approved Tung Chung Valley Outline Zoning Plan No. S/I-TCV/2 (the OZP). According to the Notes of the OZP, the temporary warehouse and open storage use of the Site requires permission from the Town Planning Board (the Board).

- 1.2 The Site of about 1,900m² will be used for temporary warehouse (596m²) and open storage (1,304m²) of construction tools, construction machinery and materials. There will be one one-storey structure (6m); two two-storey container structures (6m) and eight single-storey container structures (3m) with a total floor area of about 626m².
- 1.3 According to the applicant, there would be goods vehicles of 24 tonnes entering the Site one to two times every month and trailers with containers entering the Site one to two times every one to three months. No car parking space and loading/ unloading space will be provided. The operation hours will be from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays. Plans showing the site location and layout submitted by the applicant is at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 25.4.2019 **(Appendix I)**
 - (b) Further Information (FI) received on 28.5.2019 (FI 1) **(Appendix Ia)** clarifying vehicle trip generation (exempted)
 - (c) Further Information (FI) received on 10.6.2019 (FI 2) **(Appendix Ib)** clarifying types of goods vehicles (exempted)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib** and summarised as follows:

- (a) there will be goods vehicles of 24 tonnes entering the Site one to two times every month for transporting construction materials, and trailers with containers entering the Site every one to three months; and
- (b) there is no residential dwelling in the vicinity and the road is paved. It will not affect the local residents and no dust nuisance will be created.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “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 obtaining consent from the land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to planning enforcement action against unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement notice (the Notice) was issued on 18.3.2019 requiring discontinuation of the UD by 18.6.2019. If the Notice is not complied with, prosecution action may be taken.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There were seven applications for warehouse/ open storage of construction materials (No. A/I-TCV/1 to 7) in TCV area (**Plan A-1**) falling within “V” zone, “Other Specified Uses” annotated “River Park” (“OU(River Park)”) zone, “Residential (Group C) 2” (“R(C)2”) zone and/ or ‘Road’ area rejected by the RNTPC on 22.12.2017, 26.1.2018 and 9.2.2018 respectively on the grounds that the development will frustrate/ is not in line with the planning intention(s), causing adverse ecological, landscape and/ or visual impacts and setting an undesirable precedent (**Appendix II**).

6.2 An application for warehouse for storage of daily necessities and retail shop with ancillary office (No. A/I-TCV/9) falling within the “V” zone, and another application for warehouse and open storage of construction tools, construction machinery and materials (No. A/I-TCV/10) falling within the “V” zone, will be considered by the RNTPC in this same meeting (**Plan A-1**). Two applications for warehouse and open storage of construction tools, construction machinery and materials (No. A/I-TCV/12-13) are being processed (**Plan A-1**).

6.3 Details of the similar applications in TCV area are summarised in **Appendix II** for Members’ reference. Their locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (**Plans A-1 to A-5**)

7.1 The Site is:

- (a) accessible from Tung Chung Road via an informal local track to its northwest (**Plan A-2**);
- (b) formed and currently occupied by containers and storage of construction materials (**Plan A-4**) without valid planning permission; and
- (c) partly located within an area reserved for the proposed stormwater attenuation and treatment ponds in Area 45B (about 16%).

- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) the Site is located within a rural area with a mixture of uses including cultivated/ fallow agricultural land, village houses and open storage/ warehouses. Some of the open storage/warehouse uses are suspected unauthorized development subject to enforcement action by the Planning Authority;
 - (b) the village cluster of Shek Lau Po is located to its north;
 - (c) to its immediate west are temporary warehouse with ancillary office and open storage of construction materials which would be/is subject to enforcement action by the Planning Authority and also subject of two planning applications No. A/I-TCV/9 and A/I-TCV/10 to be considered in this same meeting; and
 - (d) to its further east and further west are the proposed River Park in Area 84 and an area zoned “Conservation Area” (“CA”) respectively covering Tung Chung Stream (**Plan A-1**).

8. Planning Intention

- 8.1 The general planning intention of Tung Chung Valley area is to conserve the ecologically sensitive areas, to protect the rural and natural character, to maintain the unique landscape character and cultural heritage of the area.
- 8.2 The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.3 The planning intention of “OU(Stormwater Attenuation and Treatment Ponds)” zone is intended for the development of stormwater attenuation and treatment ponds, which form part of the sustainable drainage and flood prevention system in the TCV area. Area 45B is one of the five sites in the TCV area along the Tung Chung Stream (the Stream) designated for the provision of stormwater attenuation and treatment ponds to treat the surface runoff collected from the development areas before discharging to the Stream, and to alleviate flood risk along the Stream. This zone may include facilities of the river park to be provided as part of the sustainable drainage and flood prevention system along the Stream subject to detailed design.

9. Comments from Relevant Government Departments

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

Public Works Programme

9.1.1 Comments of the Head of the Sustainable Lantau Office, Civil Engineering and Development Department (Head(SLO), CEDD):

the proposed temporary warehouse and open storage falls into a proposed stormwater attenuation and treatment pond under Agreement No. CE 70/2015 (CE) Tung Chung New Town Extension (West) - Design and Construction. The construction work is planned to commence in 2021 and clearance of the area would be required. As application period for a 3-year period, i.e. until year 2022 at the earliest, will be conflict with the implementation of the project, the application is not supported.

Land Administration

9.1.2 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

- (a) the Lots on the Site is an Old Schedule Agricultural Lots held under Block Government Lease. No structure shall be erected on the Lots without LandsD's prior approval; and
- (b) currently, there is no Short Term Tenancy (STT) or Short Term Waiver (STW) application in connection with the Lots under processing and there is no approved STT or STW in connection with the Lots. If the planning application is approved, the owner(s) of the Lots has to submit to LandsD application for STT/STW to implement the proposed use. LandsD would process the application in the capacity of the landlord. There is no guarantee that such application will be approved. If such application is approved, the approval will be subject to such terms and conditions including payment of fees, as may be imposed by LandsD.

Traffic

9.1.3 Comments of the Commissioner for Transport (C for T):

- (a) he has no in-principle objection to the application for a period of 3 years from the traffic engineering point of view;
- (b) the existing access roads in the vicinity of the Site are not managed by the Transport Department; and

- (c) should the Board approve the application, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

Environment

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

- (a) no complaint record was found and no enforcement action was taken in the past three years;
- (b) according to the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as there are residential dwellings in the surrounding of the Site within 100m (**Plan A-2**) and the proposed use involves use of heavy vehicles, and environmental nuisances are expected; and
- (c) should the Board approve this application, the applicant is advised to implement appropriate environmental measures recommended in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize environmental nuisances.

Urban Design and Visual

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

the Site is surrounded by farmland to its east, south and west as well as village houses to its north. Considering the small scale of the structures (one-storey warehouse and one to two-storey containers, both of 6m high), significant adverse visual impact is not anticipated.

Landscape

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

- (a) she has some reservations on the application from a landscape planning perspective;
- (b) the Site and its adjacent areas are located at the southern part of the “V” zone at Shek Lau Po and northeast part of the “OU” zone and are of rural landscape character. Dense vegetation is also found surrounding the “V” zone in a wider landscape context. Since some low-rise houses are found within the “V” zone at the northern part of the Site, the proposed temporary warehouse and open storage use is not compatible with the existing landscape character;

- (c) the Site was fully vegetated in 2018 based on aerial photo in May 2018. However, according to site photos taken in 2019, the Site is observed to have been hard paved. Containers and open storage of machinery and construction materials are observed to be already placed at the site. There has been extensive removal of existing trees/vegetation within the Site, causing significant and adverse landscape impacts. However, no information on tree survey regarding the existing trees/vegetation, including the existence of rare and protected tree species is given by the applicant. The information cannot be retrieved as the existing trees/vegetation has already been removed;
- (d) approval of the application will encourage similar tree/vegetation removal prior to obtaining planning permission, causing significant and adverse impact on the landscape resources and landscape character within the area;
- (e) since the Site is not located at landscape sensitive zone and is not facing public frontage, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board; and
- (f) approval of the application does not imply approval of tree works such as felling, transplanting or pruning under lease. The applicant is reminded to approach relevant authority/government department(s) direct to obtain necessary approval on tree works.

Nature Conservation

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

he has no strong view on the application. It is noted that the Site is basically a paved area used for open storage of construction materials and machinery. However, the applicant should ensure that no discharge from the Site is diverted to Tung Chung Stream located to the east and west of the Site.

Drainage

9.1.8 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD):

- (a) the Site is within an area where neither stormwater nor sewerage connection maintained by DSD is available in the vicinity at present;

- (b) should the Board approve this application, conditions on submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Board and maintenance of the implemented drainage facilities at all times during the planning approval period are recommended; and
- (c) the applicant should be advised that adequate drainage works should be provided such that no adverse drainage impact would be induced to the areas in the vicinity and stormwater generated would be prevented from entering rivers/ streams.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories East 1 and Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) he has no in-principle objection under the Buildings Ordinance to the proposed use in the Site;
- (b) if the Site is a leased land and the development is not a New Territories Exempted House (NTEH), the applicant's attention is drawn to the following points:
 - (i) for any existing structures erected on leased land without approval of the Buildings Department (BD) (not being a NTEH), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iii) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (iv) if the proposed use under application is subject to the issue of a licence, please be reminded that any existing structures on the Site intended to be used for such

purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;

- (v) in connection point (ii) above, the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access (EVA) in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)Rs) respectively; and
- (vi) as the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

9.1.10 Comments of the Director of Fire Services (D of FS):

- (a) he has no specific comment on the proposal subject to fire service installations and water supplies for firefighting being provided to the satisfaction of this Department. Detailed fire service requirements will be formulated upon receipt of formal general building plan submission;
- (b) in addition, the arrangement of EVA shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the Buildings Department; and
- (c) the following approval conditions are required:
 - (i) the submission of fire service installations and water supplies proposal for firefighting within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
 - (ii) in relation to (i) above, the implementation of the fire service installations and water supplies proposal for firefighting within 9 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Electricity Safety

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) he has no particular comment on the application from electricity supply safety aspect; and

- (b) however, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Director of Food and Environmental Hygiene (DFEH);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) District Officer (Islands), Home Affairs Department (DO(Is), HAD);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD).

10. Public Comments Received During Statutory Publication Period

On 10.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.5.2019, nine public comments were received from WWF-Hong Kong, Designing Hong Kong Limited, private individuals and local villagers (**Appendix III**). They object to the application mainly on the grounds of not in line with the planning intention of the TCV area, land use incompatibility with the surroundings, noise/air pollution and accidents generated by goods vehicles and heavy machinery, unauthorized developments, illegal access adverse environmental, ecological, landscape, sewerage and traffic impacts to the surroundings, setting undesirable precedent and resulting in a general degradation of the environment.

11. Planning Considerations and Assessments

11.1 The general planning intention of Tung Chung Valley area is to conserve the ecologically sensitive areas, to protect the rural and natural character, to maintain the unique landscape character and cultural heritage of the area. The proposed development is not in line with the general planning intention of Tung Chung Valley. The Site falls within an area partly zoned “V” (about 84%) and partly zoned “OU(Stormwater Attenuation and Treatment Ponds)”

(about 16%) on the OZP. The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed development is not in line with the planning intention of the “V” zone. There is no strong planning justification in the submission to support a departure from the planning intention, even on a temporary basis. The planning intention of “OU(Stormwater Attenuation and Treatment Ponds)” zone is intended for the development of stormwater attenuation and treatment ponds, which form part of the sustainable drainage and flood prevention system in the TCV area. Based on current implementation programme of the Tung Chung New Town Extension (West) – Design and Construction (the Project), the application period will be in conflict with the implementation of the Project. The approval of the application will frustrate the planning intention of the “OU(Stormwater Attenuation and Treatment Ponds)” zone.

- 11.2 The temporary warehouse and open storage uses of construction tools, construction machinery and materials are not compatible with the surrounding areas which are mainly village houses to the north and predominantly rural in nature to the south. There will be heavy goods vehicles and trailers with containers entering the Site which will generate vehicular traffic along an existing (informal) access leading from Tung Chung Road which passes through a large part of the rural area. The operation of the warehouse and open storage may cause nuisance to the residents of Shek Lau Po village within the “V” zone. DEP does not support the application as there are residential dwellings in the surrounding of the Site (the nearest one about 20m to the north) and the proposed use involves use of heavy vehicles, and environmental nuisances are expected. Although there are open storage and warehouses in operation adjoining the Site, they are UD's subject to enforcement action by the Planning Authority. The Site is subject to an active enforcement case for unauthorized storage use. Enforcement notice (the Notice) has been issued requiring discontinuation of the UD by 18.6.2019. If the Notice is not complied with, prosecution action may be taken by the Planning Authority.
- 11.3 While the scale and size of the structures may not generate significant visual impact on the area, CTP/UD&L, PlanD has some reservation on the application from a landscape planning perspective. The Site and its adjacent areas are located at the southern part of the “V” zone at Shek Lau Po and northeast part of the “OU” zone and are of rural landscape character. Dense vegetation is also found surrounding the “V” zone in a wider landscape context. There has been extensive removal of existing trees/vegetation within the Site, causing significant and adverse landscape impacts. However, no information on tree survey regarding the existing trees/vegetation, including the existence of rare and protected tree species is given by the applicant. Approval of the application will encourage similar tree/vegetation removal prior to obtaining planning permission, causing significant and adverse impact on the landscape resources and landscape character within the area.
- 11.4 There are already seven applications for temporary open storage/ warehouse of construction materials in Tung Chung Valley area. They were rejected by the

RNTPC on 22.12.2017, 26.1.2018 and 9.2.2018 respectively. Two applications will be considered by the RNTPC in this same meeting (No. A/I-TCV/9-10) and another two are being processed (No. A/I-TCV/12-13). Approval of the application, even on a temporary basis, would set an undesirable precedent and encourage other applications for similar open storage/ warehouse uses. The cumulative effect of approving such applications would result in a general degradation of the rural environment and landscape character of the area.

- 11.5 Nine public comments were received in which all of them objecting to the application mainly on the grounds of not in line with the planning intention of the TCV area, land use incompatibility with the surroundings, adverse environmental, ecological, landscape, sewerage and traffic impacts to the surroundings, setting undesirable precedent and resulting in a general degradation of the environment. The above planning assessments and considerations at paragraphs 11.1 to 11.4 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and taking into account the public comments in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of "V" zone and will frustrate the planning intention of the "OU(Stormwater Attenuation and Treatment Ponds)" zone. There is no strong planning justification in the submission to support the departure from the planning intentions, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development will not have adverse environmental and landscape impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent and encourage other applications for similar developments in the surrounding area. The cumulative effect of approving such applications would result in a general degradation of the rural environment and landscape character of the area.

- 12.2 Alternatively, 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 **21.6.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m. on Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.12.2019**;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.3.2020**;
- (f) in relation to (e) above, the maintenance of the implemented drainage facilities at all times during the planning approval period;
- (g) the submission of a fire service installations and water supplies proposal for firefighting within **6 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.12.2019**;
- (h) in relation to (g) above, the implementation of the fire service installations and water supplies proposal for firefighting proposal within **9 months** from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.3.2020**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

12.3 The recommended advisory clauses are attached at **Appendix IV**.

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 conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 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

Appendix I	Application form received on 25.4.2019
Appendix Ia	Further Information received on 28.5.2019
Appendix Ib	Further Information received on 10.6.2019
Appendix II	Similar Applications in TCV area
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Plan showing the Site location
Drawing A-2	Plan showing the layout
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4 and A-5	Site Photos

**PLANNING DEPARTMENT
JUNE 2019**