

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/730

- Applicant** : Main Plan Development Limited represented by Chuo Wang Development Consultant Limited
- Site** : Lots 870 RP (Part), 871 (Part) and 2141 RP (Part) in D.D. 83, Ma Liu Shui San Tsuen, Fanling, New Territories
- Site Area** : About 853.84 m²
- Leases** : (a) Block Government lease (demised for agricultural use) for Lots 870 RP (Part) and 871 (Part) in D.D. 83; and
(b) New Grant Lot (demised for agricultural use) for Lot 2141 RP in D.D. 83
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Proposed Temporary Recyclable Collection Centre with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary recyclable collection centre with ancillary office for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “R(C)” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘Recyclable Collection Centre’ is a Column 2 use in “R(C)” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, two structures with a total floor area of about 295.26m² at the height of about 2.5 to 3.5m for site office and storage will be erected at the northern and southern portions of the Site respectively. Three parking spaces for private vehicles and 4 loading/unloading spaces for light goods vehicles are proposed within the Site. The remaining uncovered area is mainly used for manoeuvring space (**Drawing A-2**). The recyclable materials (paper, steel cans and foam, etc.) at the Site will be mainly handled manually without heavy machinery and there would be no open storage use involved at the Site. The operation hours of the Site are between 10:00 a.m. and 4:00 p.m. from Mondays to Saturdays, no operation on Sundays and public holidays. A location and proposed layout and access plans are shown on **Drawings A-1 to A-3**. The Site is accessible from

Sha Tau Kok Road – Lung Yeuk Tau via Hai Wing Road (**Plan A-1**). The Site is currently used for parking of vehicles without a valid planning permission.

- 1.3 Part of the Site is involved in two previous applications (No. A/NE-LYT/444 and 646) submitted by different applicants for different uses (**Plan A-1**). The last application (No. A/NE-LYT/646) straddling largely on “Agriculture” (“AGR”) zone with a portion on “R(C)” zone for temporary open storage of recyclable products and ancillary workshop for a period of three years was rejected by the Committee mainly on the grounds of not in line with the planning intention of “AGR” and “R(C)” zones, not in compliance with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’; adverse landscape, traffic and environmental impacts on the surrounding areas; and setting of an undesirable precedent for similar applications within the “AGR” and “R(C)” zones.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 2.7.2020 (**Appendix I**)
 - (b) Letter dated 10.8.2020 requesting for deferment of consideration of the application (**Appendix Ia**)
 - (c) Further Information dated 19.10.2020 ^ (**Appendix Ib**)
 - (d) Further Information dated 2.12.2020 ^ (**Appendix Ic**)

^ accepted but exempted from publication and recounting requirements

- 1.5 On 21.8.2020, the Committee agreed, at the request of the applicant (**Appendix Ia**), to defer making a decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant subsequently submitted further information (**Appendices Ib and Ic**) and the application is rescheduled for consideration by the Committee on 18.12.2020.

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 and Further Information at **Appendices I, Ib and Ic**. They can be summarized as follows:

- (a) the applicant seeks a planning application to use the Site for handling recyclable materials (paper, steel cans and foam, etc.). Recyclable materials will be collected and transported to the Site for sorting, packing, compressing and then transported to other corporations;
- (b) the handling process would not generate sewage and the residual waste would be disposed or transported to refuse collection points or landfill. Adverse environmental impact is not anticipated;
- (c) the Site is abutting Hai Wing Road and the number of vehicular trips will be 3-4 times on a weekly basis to deliver recyclable materials. Traffic impact arising from the proposed development is minimal (**Appendix Ib**);
- (d) four lights goods vehicles are proposed to cater for the proposed development and to minimize traffic impact arising from unloading/unloading or illegal parking along Hai Wing Road while the 3 parking spaces for private vehicles are proposed for the use of staff (**Appendix Ic**); and

- (e) the handling process of recyclable materials will take place in an enclosed structure to minimize potential nuisance, the remaining uncovered area will be used for circulation purpose and no open storage use will be involved (**Appendix Ic**).

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

The applicant is the “current land owner” of the respective lot. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) states that the Site is part of the subject of an active enforcement case (**Plan A-2**). Enforcement Notice against storage use and parking of vehicles was issued to the concerned land owner on 21.5.2020 requiring the unauthorised development to be discontinued on or before 21.7.2020. His office will closely monitor the Site according to the established procedures.

5. **Previous Applications**

- 5.1 The Site is part of the subject of two previous applications (No. A/NE-LYT/444 and 646) for different uses. Application No. A/NE-LYT/444 for temporary private vehicle park with ancillary staff rest room and storage of repair equipment for coaches and miscellaneous items for a period of 3 years was rejected by the Board on review on 17.2.2012 mainly on the grounds of not in line with the planning intention of “AGR” and “R(C)” zones and failing to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas.
- 5.2 Application No. A/NE-LYT/646 for temporary open storage of recyclable products for a period of 3 years submitted by a different applicant was rejected by the Committee on 18.5.2018 mainly on the grounds of not in line with the planning intention of “AGR” and “R(C)” zones, not in compliance with the then Town Planning Board Guidelines No.13E in that no previous approval has been granted at the Site and there were adverse departmental comments on the application; no information in the submission to demonstrate that the development would not cause adverse landscape, traffic and environmental impacts on the surrounding areas; and setting of an undesirable precedent for similar applications within the “AGR” and “R(C)” zones.
- 5.3 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. **Similar Application**

There is no similar application for temporary recyclable collection centre with ancillary office in the “R(C)” zone.

7. **The Site and Its Surrounding Areas** (Plans A-1 to A-3 and site photos on Plans A-4a and A-4b)

7.1 The Site is:

- (a) formed, paved and partially fenced off;
- (b) used for parking of vehicles; and
- (c) abutting Hai Wing Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) mainly a mixed rural landscape character dominated by low-rise residential buildings, active/fallow agricultural land, car repairing workshops and open storage;
- (b) to the east and west along Hai Wing Road are low-rise residential buildings and vehicle repairing workshops and warehouses within the “R(C)” zone;
- (c) to the north across Hai Wing Road are low-rise residential buildings and vacant land; and
- (d) to the immediately south is open storage use and further south are active/fallow agricultural land intermixed with domestic structures within the “AGR” zone.

8. **Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. **Comments from Relevant Government Departments**

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

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the private Lots 870 RP (Part) and 871 (Part) in D.D. 83 (**Plan A-2**) under application are Old Schedule Lots held under the Block Government lease (demised for agricultural use) without any guaranteed right of access. The applicant should make its own arrangement for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for access of the applied use;
- (b) Lot 2141 RP in D.D. 83 is held under New Grant No. 9118 for agricultural use;

- (c) the existing structures on the Site (**Plan A-4a**) were erected without approval from his office. The aforesaid structures are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (d) the Site is surrounded by private lots. The applicant should seek consent to use the concerned lots from the concerned owners for access purpose; and
- (e) if the planning application is approved, the owner(s) of the lots concerned shall apply to this office for a Short Term Waiver (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

- (a) having reviewed the further information submitted by the applicant (**Appendices Ib and Ic**) in demonstrating the satisfactory manoeuvring of vehicles within the Site and the provision of traffic mitigation measures near the entrance of the Site to ensure pedestrian safety, she has no in-principle objection to the application from the traffic engineering point of view; and
- (b) the vehicular access along Hai Wing Road is not managed by Transport Department. The applicant should seek comment from the responsible party.

Environment

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

- (a) it is noted that there are domestic structures within 100m of the proposed development (**Plan A-2**). The noisy activities on Site may cause noise nuisance to residents nearby and future environmental complaints may be received. Nevertheless, as the on-site activities would be carried out during limited operation hours as proposed by the applicant and the applicant committed that no heavy machinery would be used at the Site, she has no objection to the application provided that a 2.5m high solid boundary wall would be erected along the boundary of the Site; and
- (b) should the application be approved, the applicant should be reminded of his obligation to comply with all environmental protection / pollution ordinances, in particular Noise Control Ordinance. The applicant should also follow other relevant mitigation measures and requirements in Notes to Annex I of the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites", including locating noise generating activities away as far as possible from any noise sensitive

receivers; and to adopt quieter equipment on Site to minimize noise nuisance to nearby residents. Besides, if a septic tank and soakaway system (STS) would be adopted to treat and dispose of sewage on Site, the applicant is reminded to design, construct, operate and maintain the STS in accordance with ProPECC PN 5/93.

Landscape Aspect

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

- (a) no comment on the application from the landscape planning point of view;
- (b) the Site was hard paved with no vegetation within the Site. Since the application does not involve any landscape issue and there is no significant landscape resources within the Site, no significant landscape impact is anticipated; and
- (c) since there is no major public frontage along the site boundary, should the Board approve the application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

9.1.5 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 viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that the applied use will not cause adverse impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

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

- (a) if the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application;
- (b) before any new building works are to be carried out on the Site, prior

approval and consent of the Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. Otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;

- (c) for UBW erected on leased land, enforcement action may be taken by the BA 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 application site under the BO;
- (d) 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;
- (e) any temporary shelters or converted containers for office or storage or other uses are considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations;
- (f) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
- (g) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the Building Authority under Building (Planning) Regulation 19(3) at building plan submission stage; and
- (h) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) having considered the design/nature of the proposal, the applicant is advised to submit the relevant layout plans incorporated with the proposed FSIs to his department for approval. In preparing the submission, the applicant is advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and

- (ii) the locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans. The applicant will need to subsequently provide such FSIs according to the approved proposal.

Water Supply

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend the 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 the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee, the Indigenous Inhabitant Representative and Resident Representative of Ma Liu Shui San Tsuen and the North District Council Member of the subject consistency object to the application on the grounds of environmental pollution, affecting the living environment and adverse traffic and hygienic impacts generated from the proposed development.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (c) Director of Agriculture, Fisheries and Conservation (DAFC).

10. Public Comments Received During Statutory Publication Period

On 10.7.2020, the application was published for public inspection. During the statutory public inspection period, four comments were received (**Appendix III**). A North District Council Member indicates no comment on the application. The remaining three comments from the Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee object to the application mainly on the grounds that the Site is in close proximity to residential use, the applied use would create adverse environmental impact and thus affect the living environment of the surrounding areas.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary recyclable collection centre with ancillary office for a period of 3 years in the “R(C)” zone (**Plan A-1**). The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments. Whilst the proposed use is not entirely in line with the planning intention of the “R(C)” zone, there is no known programme for long-term residential development on the Site. Approval of the current application on a temporary basis would not jeopardize the long-term planning intention of the “R(C)” zone.
- 11.2 The Site is situated in an area of rural landscape character comprising low-rise residential development and village houses while some open storages and warehouses are found nearby (**Plan A-2**). The proposed development involves the erection of two structures with a total floor area of about 296m² at the height of about 2.5 to 3.5m for site office and storage use at the Site. It is considered not entirely incompatible with the immediate surrounding area which is mixed with warehouses, open storage yards, some vacant and unused land, active / fallow agricultural land and domestic uses.
- 11.3 According to the applicant, the proposed temporary recyclable collection centre mainly involves collection and packaging of recyclable paper, steel cans and foam, etc. without involving heavy machinery and open storage use. The area for handling recyclable materials is proposed within the enclosed structure. In view of the nature of the proposed development, the scale and no medium or heavy goods vehicles will be involved, it is anticipated that the proposed use will not generate significant adverse traffic, environmental and drainage impacts on the surrounding area. Relevant Government departments consulted, including C for T, DEP, D of FS, CE/C of WSD and CE/MN of DSD, have no objection to or no adverse comment on the application. To address any potential environmental nuisance, relevant approval conditions including restricting the operation hours and types of vehicles and provision of a 2.5m high solid boundary wall along the site boundary as requested by DEP, etc. are recommended. Besides, the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” and ProPECC PN 5/93 should the application be approved by the Board.
- 11.4 The Site is part of the subject of two previously rejected applications (No. A/NE-LYT/444 and 646) submitted by different applicants for different uses. The last previous application No. A/NE-LYT/646 for temporary open storage of recyclable products for a period of three years was rejected by the Committee mainly on the grounds of not in line with the planning intention of “AGR” and “R(C)” zones, not in compliance with the then Town Planning Board Guidelines No. 13E in that no previous approval has been granted at the site and there are adverse departmental comments on the application; no information in

the submission to demonstrate that the development would not cause adverse landscape, traffic and environmental impacts on the surrounding areas; and setting of an undesirable precedent for similar applications within the “AGR” and “R(C)” zones. The current application only involves “R(C)” zone with a smaller site area, and is for a different use.

- 11.5 Regarding the local objections conveyed by DO(N) of HAD and public comments as detailed in paragraphs 9.1.9 and 10 above, the Government departments’ comments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local objections conveyed by DO(N) of HAD and public comments mentioned in paragraphs 9.1.9 and 10 above, the Planning Department has no objection to the application for a period of three years.
- 12.2 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 3 years until 18.12.2023. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation between 4:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays is allowed on the Site during the planning approval period;
- (c) only private car and light goods vehicle as defined in the Road Traffic Ordinance are allowed to enter/exit the Site at any time during the planning approval period;
- (d) the provision of a 2.5m high solid boundary wall along the site boundary within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 18.6.2021;
- (e) 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 18.6.2021;
- (f) in relation to (e) above, the provision of drainage facilities 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 18.9.2021;
- (g) the submission of proposals for fire service installations and water supplies for firefighting within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.6.2021;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.9.2021;

- (i) if any of the above planning conditions (a), (b) or (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) 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.

Advisory Clauses

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

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

- the proposed development is not in line with the planning intentions of the "R(C)" zone, which is primarily for low-rise, low-density residential developments. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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, and the period of which the permission should be valid on a temporary basis.
- 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 with Attachments received on 2.7.2020
Appendix Ia	Letter dated 10.8.2020 requesting for deferment of consideration of the application
Appendix Ib	Further Information dated 19.10.2020
Appendix Ic	Further Information dated 2.12.2020
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Site Layout Plan
Drawing A-3	Site Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**