

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/321

- Applicant** : Ming Fai Industrial (HK) Company Limited represented by Metro Planning & Development Company
- Site** : Lots 2019 (Part) and 2037 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : 1,280 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui (LFS&TBT) Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Warehouse for Storage of Plastic and Retail of Plastic Pellet for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of plastic and retail of plastic pellet for a period of 3 years. The Site falls within “REC” zone on the draft LFS&TBT OZP. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP.
- 1.2 The Site is related to 4 previous applications (Nos. A/YL-LFS/26, 38, 123 and 134) for temporary open storage of construction materials with/without workshop and temporary plastic recycling workshop. Details of these applications are summarized in paragraph 5 below and **Appendix II** and their locations are shown on **Plan A-1**. The Site is currently partly vacant and partly with some converted containers.
- 1.3 The Site is accessible from Deep Bay Road via a local track with the ingress/egress located at the eastern side of the Site (**Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, 2 structures with a total floor area of about 800m² are proposed (including a 8m high single-storey structure with a floor area of 600m², occupying the western portion of the Site for warehouse use and a 5m

high single-storey structure with a floor area of 200m² for retail use. A loading/unloading bay for light goods vehicle is also proposed. The proposed landscape plan and proposed drainage plan are at **Drawings A-3 to A-4**. According to the applicant, the operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. According to the applicant, delivery will be carried out by light goods vehicle not exceeding 5.5 tonnes only. No workshop activities is proposed.

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

- (a) Application Form received on 15.5.2018 (Appendix I)
- (b) Supplementary planning statement with layout plan, (Appendix Ia) proposed landscape plan and proposed drainage plan

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They can be summarized as follows:

- (a) Due to the tightening up of the requirement of China Custom, the proposed extension is indeed necessary in support of the operation of the plastic recycle business which has been already there for more than 30 years.
- (b) The proposed development is significantly different from Open Storage and Port Back-up activities
- (c) The development only involves storage of packed raw material and plastic pellet and no workshop activity would be carried out on-Site. They are clean and stored tidily within the warehouse.
- (d) The planning intention of the “REC” zone is unrealizable in the near future. The widespread of open storage and port back-up uses, remoteness and inaccessibility of the area severely affects the area from evolving into a tourism and recreation area.
- (e) No alternative site for the proposed use due to shortage of land for operation of the plastic recycle workshop in Ha Tsuen and Lau Fau Shan.
- (f) The development is compatible with the surrounding environment as there are different open storage and port back-up uses in the vicinity, which are either EUs or approved on a temporary basis by the Board. The technical assessments demonstrated that the environmental, traffic and drainage impacts generated by the development would be insignificant. Various mitigation measures are proposed to maintain the environmental, traffic, visual and drainage qualities.

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 sending notice to the Ha Tsuen Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject of an active enforcement case (No. E/YL-LFS/439 – UD: storage use and parking of vehicles). EN for the case was issued and the EN required UD be discontinued on or before 3.4.2018. Central Enforcement and Prosecution Section of Planning Department (CEP of PlanD) will monitor the Site and if the UD continues upon expiry, CEP will consider to take necessary prosecution action against the concerned lot owners under the Town Planning Ordinance subject to sufficient evidence collected.

5. Previous Applications

5.1 The Site is involved in 4 previous applications (Nos. A/YL-LFS/26, 38, 123 and 134) (**Plan A-1**). Detailed of these previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 Application Nos. A/YL-LFS/26, 38 and 123 for temporary open storage of various materials and No. A/YL-LFS/134 for temporary plastic recycling workshop were rejected by the Committee/the Board between 1998 and 2005 on the grounds that the development was not in line with the planning intentions, that it was not compatible with the surrounding areas, that there was insufficient information in the submission to demonstrate that the development would not have adverse traffic and drainage impacts, that approval of the application would set an undesirable precedent for similar applications.

6. Similar Applications

6.1 There are 5 similar applications (Nos. A/YL-LFS/91, 214, 223, 261 and 295) for warehouse uses within the same “REC” zone. Between 2002 and 2010, 2 applications (Nos. A/YL-LFS/91 and 214) for warehouse uses within the same “REC” zone were rejected by the Committee/the Board mainly for not being in line with the planning intention of the “REC” zone; insufficient or no information to demonstrate that the development would not have adverse environmental, ecological, traffic, drainage or landscape impacts on the surrounding area; approval of the application would set an undesirable precedent for similar application; and the cumulative impacts of which would result in a general degradation of the environment of the “REC” zone.

6.2 However, 3 similar applications Nos. A/YL-LFS/223, 261 and 295 for temporary warehouse for storage of animal feed on the same site were approved by the Committee between 2011 and 2017. Amongst these approved applications, one of them (No. A/YL-LFS/223) was subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix III** while the locations are shown on **Plan A-1**.

6.3 For Members' information, Application No. A/YL-LFS/320 for Temporary Warehouse for Storage of Documents for a Period of 3 Years within the same "REC" zone will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) currently partly vacant and partly with some convertible containers; and
- (b) accessible from Deep Bay Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) predominately occupied by open storage/storage yards, warehouses, parking of trailers, chicken shed, unused land and vacant land;
- (b) a residential dwelling is found in the vicinity of the Site which is located about 15m to its east;
- (c) there are a chicken shed, a storage yard and an open storage yard to its northeast and an open storage yard to its south across Deep Bay Road, which are "Existing Uses" (EU) tolerated under the Town Planning Ordinance; and
- (d) other open storage/storage yards, warehouses and parking of trailers in the vicinity are suspected unauthorized developments (UDs)

8. Planning Intention

The planning intention of the "REC" zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

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:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots 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) The Site is accessible to Deep Bay Road through both Government land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the planning application be approved, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on Site. Such application will be considered by the LandsD 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 LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/ New Territories, Transport Department (AC for T/NT, TD):

- (a) On the basis of information provided by the applicant, the traffic of the Site would be through a local track leading to Deep Bay Road which is a one-lane two-way carriageway. The local trip generation and attraction estimated by the applicant is 3.0 pcu/hr at peak hours, and involves light goods vehicles only. On this basis, he has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

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

- (a) He does not support the application as there are sensitive receivers in the vicinity of the Site (the nearest dwelling being about 15m away) and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Landscape

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

- (a) The Site, located to the north of Deep Bay Road lies in an area of “Recreation” zone. An area of “Coastal Protection Area” zone lies to the west of the site. The Site is subject of previously rejected planning Application No. A/YL-LFS/134 for open storage of recycling plastic bottles to which we had reservations from the landscape planning perspective. The current application seeks planning permission for a temporary warehouse for storage of plastic and retail of plastic pellets for a period of 3 years.
- (b) With reference to the aerial photo of 2018, it is observed that the Site is hard paved and used for open storage. No significant vegetation is observed within the Site. The Site is situated in an area of coastal plains landscape character disturbed by open storage yards and temporary structures. The proposed use and extensive hard paving is incompatible with the environment and its landscape character.
- (c) When comparing the aerial photos of 2006, 2015 and 2018 it is observed that the site and its vicinity was originally vegetated with trees and shrubs but gradual landscape impact is observed within the Site and its vicinity. Adverse landscape impact has taken place.
- (d) The approval of the application would set an undesirable precedent likely to encourage the proliferation of other incompatible uses to the area. The cumulative impact of which would be the general degradation of the coastal plains landscape character and overall integrity of the “REC” zone. In consideration of the “Coastal Protection Area” zone to the north west, the extensive hard paving may have adverse off-site impact caused by the contaminated soil, tainted water run-off and/or changes to the water table. Hence his office has reservations on the application from the landscape planning perspective

- (e) Should the application be approved, in view of the above, he would recommend the following approval condition to be included in the permission:

The submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

- (f) Detailed comments of CTP/UD&L, PlanD are summarized in **Appendix V**.

Drainage

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

- (a) He has no objection in principle to the proposed application from drainage point of view. He provides comments on the submitted drainage proposal at **Appendix V**.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on application site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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 application site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (d) If 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 Building (Planning) Regulation at the building plan submission stage.

Nature Conservation

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

Based on past aerial photo of 28.3.2017, the Site is paved and disturbed. It is also at certain distance (~40m) from the "Coastal Protection Area" zone. As such, he has no comment on the subject application from nature conservation point of view. Should the application be approved, please advise the applicant to adopt good site practices and implement water pollution control measures as necessary in order to avoid affecting the Coastal Protection Area zone to the northwest of the Site.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of Director of Fire Services.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the followings points:
 - i. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - ii. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comment

9.1.10 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (b) Chief Engineer/Sewage Projects, Drainage Services Department (CE/SP, DSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD)

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

On 25.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 25.5.2018, 2 public comments were received from a District Council member (**Appendix IV-a**) and an individual (**appendix IV-b**). The District Council member does not give reason for his objection while the individual member of the public objects on the ground of setting an undesirable precedent and not in line with the planning intention.

11. **Planning Considerations and Assessment**

11.1 The Site falls within “REC” zone. “REC” zone is intended is intended primarily for recreational developments for the use of the general public. Whilst the applied development is not in line with the planning intention of “REC” zone, there is yet to have any known development proposals to implement the zoned use on the OZP, approval of the application on temporary basis would not frustrate the planning intention of the “REC” zone. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site.

11.2 The Site is located in an area predominantly occupied by warehouse, workshop and open storage uses (**Plan A-2**). The applied use is not incompatible with the surrounding uses of the area.

11.3 There are no adverse comments or objections from concerned Government departments including AC for T/NT of TD, DAFC and CE/MN of DSD, except DEP. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential dwelling is about 15m to the east of the Site (**Plan A-2**)), and environmental nuisance is expected. However, there has been no substantial environmental complaint concerning the Site received in the past 3 years. To address the concerns on environmental aspect and the technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact, and to keep the Site clean and tidy at all times.

11.4 However, CTP/UD&L of PlanD has reservations on the application from the landscape planning perspective mainly on grounds that the approval of the

application would set an undesirable precedent likely to encourage the proliferation of other incompatible uses to the area, and that the cumulative impact of which would be the general degradation of the coastal plains landscape character and overall integrity of the “REC” zone. In this regard, it should be noted that the Site is zoned “REC” intended for recreation development. Relevant approval conditions requiring the applicant to submit and implement a landscape proposal, are recommended in paragraph 12.2 below to address CTP/UD&L, PlanD’s concerns.

11.5 The Site is the subject of 4 previously rejected applications Nos. A/YL-LFS/26, 38, 123 and 134. However, the applied uses under these applications were different (i.e. open storage or workshop) and they were rejected in or before 2005. On the other hand, the Committee had approved 3 similar applications (Nos. A/YL-LFS/223, 261 and 295) on the same site in the same “REC” zone for warehouse use between 2011 and 2017 (**Plan A-1**). Approval of the subject application is in line with these Committee’s previous decisions.

11.6 Two public comments were received objecting to the application mainly on grounds stated in paragraph 10. Planning considerations and assessments in paragraphs 11.1 to 11.5 are relevant to these public comments.

12. Planning Department’s Views

12.1 Based on the assessment made in paragraph 11 above, and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the proposed temporary warehouse for storage of plastic and retail of plastic pellet could be tolerated for a period of 3 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 **6.7.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. to 9:00 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, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no goods vehicles exceeding 5.5 tonnes, including medium goods vehicles, heavy goods vehicles, container tractor/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/ exit or to be parked/stored on on the Site at any time during the planning approval period;
- (d) no workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) no open storage of materials, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;

- (f) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (g) the submission of a revised 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 **6.1.2019**;
- (h) in relation to (g) above, the implementation of the revised 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 **6.4.2019**;
- (i) in relations to (h) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (j) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (k) in relation to (j) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.4.2019**;
- (l) the submission of a fire service installations proposal 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 **6.1.2019**;
- (m) in relation to (l) above, the implementation of the fire service installations proposal 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 **6.4.2019**;
- (n) the provision of fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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;
- (p) if any of the above planning conditions (g), (h), (j), (k), (l), (m) or (n) 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; and
- (q) upon expiry of the planning permission, the reinstatement of the application Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

The development is not in line with the planning intention of the "Recreation" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from such 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 permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 15.5.2018
Appendix Ia	Supplementary planning statement with layout plan, proposed landscape plan and proposed drainage plan
Appendix II	Previous applications covering the Application Site
Appendix III	Similar applications within the "REC" zone on the approved Lau Fau Shan and Tsim Bei Tsui OZP
Appendix IVa to b	Public Comments received during statutory publication period
Appendix V	Detailed comments of concerned Government departments
Appendix VI	Advisory clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2018**