

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/332

- Applicant** : Wai Kee Recycling Storage represented by Metro Planning and Development Company Limited
- Site** : Lots 1973 (Part), 1974 (Part), 2028 RP (Part), 2029, 2030 (Part), 2031 (Part), 2032 RP (Part) & 2033 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 3,272 m² (including about 360 m² Government Land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zonings** : “Recreation” (“REC”)
- Application** : Proposed Temporary Warehouse for Storage of Scrap Metal 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 for storage of scrap metal for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “REC”. According to the covering Notes of the OZP, temporary use of development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP. The Site does not involve any previous application and is currently being used for open storage of scrap metal and workshop without valid planning permission.
- 1.2 The Site is accessible via a local track leading to Deep Bay Road (**Plan A-2**). The ingress/egress is located at the south-western boundary of the Site (**Drawing A-1**). As shown on **Drawing A-1**, 5 temporary structures not exceeding 8 m in height are proposed on the Site with a total floor area of 1,730m², including 4 one-storey structures for loading/unloading platform, site office and open shed, warehouses for storage of scrap metal and 1 two-storey structure for site office and open shed. The applicant indicates that 1 loading/unloading space for light goods vehicle will be provided at the Site. According to the applicant, no workshop activity will be carried out at the Site. The operation hours of the Site are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on

Sundays and public holidays. The proposed layout plan, landscape and tree preservation plan and drainage plan are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 18.12.2018 (Appendix I)
- (b) Supplementary Planning Statement with site plan, location plan, proposed layout plan, proposed landscape and tree preservation plan, and proposed drainage plan (Appendix Ia)
- (c) Letters dated 15.1.2019 and 17.1.2019 in response to Transport Department's comments (Appendix Ib)

2. Justifications from the Applicant

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

- (a) The applicant claims that the proposed development is an extension to the existing use of open storage of scrap metal to the immediate south of the Site.
- (b) The applied use is intended for storage and classification of scrap metal only. No workshop activity would be carried out at the Site.
- (c) The proposed development would not jeopardize the long term planning intention of the "REC" zone.
- (d) There is no alternative site for the applied use due to shortage of land for operation of storage use in Ha Tsuen and Lau Fau Shan.
- (e) There are some temporary warehouses and open storage developments in the "REC" zone in the surrounding areas, which have been approved by the Board. The proposed development is not incompatible with the surrounding environment.
- (f) There would be no operation on-site from 6:00 p.m. to 9:00 a.m. and on Sundays and public holidays. There will be no adverse traffic, environmental and drainage impacts from the proposed development.

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 notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is a subject of an active enforcement case for unauthorized development (UD) of storage use, workshop use and use for parking of vehicle. Enforcement Notice was issued on 17.7.2018 requiring the UD to be discontinued by 19.9.2018. The recent site inspection revealed that the UD continued. Subject to sufficient evidence, it is considered to instigate planning prosecution action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

6.1 There are 4 similar applications (Nos. A/YL-LFS/99, 104, 114 and 320) for temporary warehouse/godown with/without open storage uses within the same "REC" zone on the OZP. Details of these applications are summarized at **Appendix II** and the locations of these application sites are shown on **Plan A-1**.

6.2 Among the 4 similar applications, 3 applications (Nos. A/YL-LFS/99, 104 and 114) for temporary warehouse/godown for storage of cleaning agents and/or open storage of construction materials were rejected by the Committee/the Board on review in 2003 mainly on grounds that the applied uses were not in line with the planning intention of "REC" zone; there was insufficient information in the submission to demonstrate that the development would not have adverse environmental, traffic and drainage impacts on the surrounding areas; the approval of the application would set an undesirable precedent for other similar planning applications, and the cumulative effect of which would result in adverse traffic impact and a general degradation of the environment of the area. The other application (No. A/YL-LFS/320) for temporary warehouse for storage of documents was approved by the Committee on 6.7.2018 on a temporary basis for a period of 3 years mainly on the considerations that the applied use was not incompatible with the surrounding uses and only involved warehouse for storage of documents; and the environmental mitigation measures could minimize the possible environmental impacts.

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

7.1 The Site is:

- (a) currently fenced off and being used for open storage of scrap metal without a valid planning permission; and
- (b) accessible via a local track connecting to Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its east is the private columbarium Che Wan Seen Yuen under renovation;

- (b) to its south are open storage uses, unused/vacant land and a grave;
- (c) to its north-east are residential structures, fallow agricultural land, unused land and a warehouse; and
- (d) to its north-west across Deep Bay Road are mainly occupied by open storage yards, parking of container trailers and vehicles and chicken shed.

8. Planning Intention

The planning intention of the “REC” zone is 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 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 Government land (GL) of about 360 m² 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 from Deep Bay Road through both GL and Private Land (PL). Her 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 the application be approved, the lot owner will need to apply to her office to permit the structures to be erected or regularize any irregularity on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL from the Site or apply for a

formal approval prior to the actual occupation of the GL. Such application will be considered by 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 LandsD.

Traffic

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

- (a) According to CAP 374 – Road Traffic Ordinance, light goods vehicle means a goods vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes. According to the application, it was claimed that the quantity of export usually involves a number of containers.
- (b) Although the applicant claimed that the applied use would only involve traffic flow of light goods vehicles, he considered that the proposed development would generate additional traffic flow of medium goods vehicles / heavy goods vehicles to be assessed through Deep Bay Road which is a single-lane carriageway with passing bays. The applicant has yet to address the associated traffic impact by the additional traffic flow of medium goods vehicles / heavy goods vehicles to Deep Bay Road. In this regard, on the basis of the current information, he does not support the application from traffic engineering point of view.

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 the 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) No substantiated environmental complaint pertaining to the Site has been received in the past three years.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the 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 abuts Deep Bay Road and lies in an area of “REC” zone. The Site is not subject to any previous planning application. The current application seeks planning permission for temporary warehouse use 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 as an open storage yard. A few existing trees are observed along the southern boundary and the Deep Bay Road boundary. A private columbarium is observed to the immediate east of the Site. The Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures. Despite the proposed use is not entirely compatible with the surrounding environment and planned landscape character, other open storage yards and brownfield uses are observed in the vicinity, which are suspected UDs.
- (c) Approval of the application may likely set an undesirable precedent encouraging other incompatible use to the vicinity. The cumulative impact of which would be the degradation of the integrity of the “REC” zone and rural landscape character in general.
- (d) In view of the above, he has reservation on the application from the landscape planning perspective.
- (e) In consideration that no further adverse landscape impact within the Site is envisaged, the condition to maintain all existing vegetation within the Site in good condition for the duration of the approval period is considered adequate and appropriate should the application be approved by the Board.
- (f) The applicant is reminded that approval of the application under S.16 does not imply approval of tree works such as felling, transplanting or pruning under lease. The Applicant shall be reminded to approach relevant authority/government department(s) direct to obtain the necessary approval for any proposed tree preservation or removal scheme involving trees within or outside the Site.

Drainage

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

He has no objection in principle to the proposed development from drainage point of view. Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to

the satisfaction of his department.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, 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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) 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.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the subject application.
- (c) 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (e) 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.
- (f) 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) Regulations at the building plan submission stage.

Others

9.1.9 Comments from the Antiquities and Monuments Office (AMO):

- (a) In view of the location and scope of the proposed temporary warehouse, his has no objection to the application from cultural heritage point of view.
- (b) The applicant is required to inform AMO immediately if antiquities or supposed antiquities are discovered within the Site.

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such facilities and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the activity / operation, the applicant should arrange disposal properly at her own expenses.
- (c) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

9.1.11 Comments of the 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) Director of Agriculture, Fisheries and Conservation;
- (b) Project Manager (West)/West Development Office, Civil Engineering and Development Department (PM(W)/WDO, CEDD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);

- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 28.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 18.1.2019, one public comment (**Appendix III**) was received from an individual objecting the application as the proposed development will create inefficient use of land resources and the parking spaces should be accommodated in multi-storey buildings.

11. Planning Considerations and Assessments

11.1 The Site is zoned “REC” which is intended primarily for recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. The proposed warehouse use is not in line with the planning intention of the “REC” zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

11.2 There are adverse comments from C for T. Although the applicant claimed that the applied use would only involve traffic flow of light goods vehicles, C for T considered that the proposed development which involves transporting of scrap metal would generate additional traffic flow of medium goods vehicles/heavy goods vehicles to be assessed through Deep Bay Road which is a single-lane carriageway with passing bays. The applicant has yet to address C for T’s concern. As such, the applicant fails to demonstrate that the applied use would not have adverse traffic impact.

11.3 The Site is situated in an area of rural landscape character disturbed by open storage yards/parking of vehicles/container trailers. In this regard, CTP/UD&L has reservation on the application from landscape planning perspective. He considers that the applied use is not entirely compatible with the surrounding environment and landscape character. Moreover, approval of the application would set an undesirable precedent to encourage other incompatible uses to the vicinity. The cumulative effect would undermine the integrity of the “REC” zone and result in degradation of the rural landscape character in general.

11.4 No previous planning approval has been granted for the Site and three similar applications (No. A/YL-LFS99, 104 and 114) for warehouse use in the vicinity were also rejected by the Committee. Although the Committee has approved a similar application (No. A/YL-LFS/320) for temporary warehouse for storage of documents, sympathetic considerations were given in view of the applied use only involves warehouse for storage of documents and the applicant has submitted landscape and tree preservation plan and drainage plan and recommended environmental mitigation measures to minimize potential environmental impact; and there were no adverse departmental comments from traffic, environment and fire safety perspectives. However, for the current application, the proposed warehouse involves storage of scrap metal and there were adverse comments on traffic aspect. As such, rejecting the current application is in line with Committee’s previous decisions.

11.5 There is 1 public comment received from an individual objecting the application mainly on the grounds as summarized in paragraph 10 above. The planning assessments and considerations in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for temporary warehouse for storage of scrap metal for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "REC" zone which is intended primarily for recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications for other departments within the "REC" zone. The cumulative effect of approving such application would result in a general degradation of the environment 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 1.2.2022. 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., 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 workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no medium or heavy vehicle exceeding 5.5 tonnes, including container trailer/tractor, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;

- (f) the existing vegetation on the Site shall be maintained in good condition at all times during the planning approval period;
- (g) the implementation of the accepted 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 **1.8.2019**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **1.8.2019**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **1.11.2019**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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; and
- (l) if any of the above planning conditions (g), (i), or (j) 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

Advisory clauses

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 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 18.12.2018
Appendix Ia	Supplementary Planning Statement with site plan, location plan, proposed layout plan, proposed landscape and tree preservation plan, and proposed drainage plan
Appendix Ib	Letters dated 15.1.2019 and 17.1.2019 in response to Transport Department's comments
Appendix II	Similar Applications within the same "REC" zone on the Approved Lau Fau Shan and Tsim Bei Tsui OZP
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**