RNTPC Paper No. A/YL-LFS/368 For Consideration by the Rural and New Town Planning Committee on 4.9.2020

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/368

Applicant: Mr. KONG Chun Sing represented by Metro Planning & Development

Company Limited

Site : Lots 1679 (Part), 1684 (Part), 1685 (Part) and 1690 (Part) in D.D. 129 and

Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories

Site Area : About 5,600 m² (including about 910 m² of GL (about 16.3%))

<u>Lease</u>: Block Government Lease (Demised for Agricultural Use)

<u>Plan</u>: Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No.

S/YL-LFS/9

Zoning : "Recreation" ("REC")

Application: Temporary Warehouse for Storage of Construction 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 for storage of construction materials for a period of 3 years (**Plan A-1**). The Site falls within an area zoned "REC" and the applied use is neither a Column 1 nor Column 2 use in the "REC" zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning 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 is covered with valid planning permission under No. A/YL-LFS/320 for temporary warehouse for storage of documents. However, the Site is currently used as a temporary warehouse for storage of sanitary wares, water pumps and water tanks not covered by the last planning permission (**Plans A-3, A-4a and A-4b**).
- 1.2 The Site is the subject of two previous applications (No. A/YL-LFS/99 and 320) for temporary warehouse with/without open storage uses. The last application (No. A/YL-LFS/320) for temporary warehouse for storage of documents for a period of 3 years was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 6.7.2018 until 6.7.2021. Compared with the previous application (No. A/YL-LFS/320), the current application was submitted by the

- same applicant with similar layout and development parameters on the same site but storage of different items.
- 1.3 The Site is accessible via a local track leading from Deep Bay Road and the ingress/egress is located at the north-western part of the Site (**Drawing A-1**, **Plans A-1**, **A-2** and **A-3**). As shown on **Drawing A-2** and indicated in the submission, there are five temporary one-to-two-storey structures (with building heights of 3.5 to 8 m and a total floor area of about 3,725 m²) for storage, office, electricity meter room and toilet uses. The Site includes 1 loading/ unloading bay for light goods vehicle and the operation hours of the Site are from 9 a.m. to 6 p.m. on Mondays to Saturdays, and no operation would be carried out on Sundays and public holidays. Only 5.5-tonne light goods vehicle is used to deliver construction materials (sanitary wares, water pumps and water tanks) to and from the Site. The proposed vehicular access plan, layout plan, landscape and tree preservation plan, and drainage plan are at **Drawings A-1 to A-4** respectively.
- 1.4 A comparison of the major development parameters of the current application and the last approved application No. A/YL-LFS/320 is given in the following table:

Major Development Parameters	Last Approved Application	Current Application (A/YL-LFS/368)	Difference (b) – (a)
Parameters	(A/YL-LFS/320) (a)	(b)	
Site Area	About 5,600 m ²	About 5,600 m ²	No change
Applied Use	Temporary	Temporary Warehouse	Change in
	Warehouse for	for Storage of	storage items
	Storage of	Construction	
	Documents for a	Materials (Sanitary	
	Period of 3 Years	Wares, Water Pumps	
		and Water Tanks) for	
		a Period of 3 Years	
No. of Structures	3	5	+2
	(1) two warehouses	(1) two warehouses	
	for storage of	for storage of	
	documents	construction materials	
	(2) a toilet	and site offices	
		(2) two toilets	
		(3) a electricity meter	
		room	
Total Gross Floor	$3,620 \text{ m}^2$	$3,725 \text{ m}^2$	$+105 \text{ m}^2$
Area (GFA)			
Loading/Unloading	1	1	No change
Bay for Light			
Goods Vehicles			

- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 13.7.2020 (Appendix I)
 - (b) Further Information (FI) received on 14.8.2020 providing (**Appendix Ia**) responses to the comments of the Transport Department

(exempted from publication and recounting requirements)
(c) FI received on 28.8.2020 clarifying the site details
(exempted from publication and recounting requirements)

(Appendix Ib)

2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed at **Appendices I, Ia and Ib**. They can be summarized as follows:

- (a) The original sauce factory and food processing workshop at the Site have been relocated to Mainland China. Subsequently, planning approval for temporary warehouse for storage of documents was granted in 2018 yet the tenant for storage of documents has discontinued his business at the Site. The Site is being/will be used for storage of sanitary wares, water pumps and water tanks.
- (b) The warehouse for storage of sanitary wares, water pumps and water tanks, is significantly different from the nearby open storage and port back-up activities and is compatible with the surrounding small-scale open storage uses, rural workshops, factories and warehouses. Also, no workshop activity and open storage of materials will be occurred at the Site.
- (c) The planning intention of the "REC" zone is unrealisable in the foreseeable future.
- (d) The Site falls within the Category 3 Areas according to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). Although further proliferation of such uses is not acceptable, the Site is subject to a previous approval (Application No. A/YL-LFS/320) so that the development could be favorably considered.
- (e) The applied use would have minimal traffic and environmental impacts to the surrounding environment as the storage of construction materials (sanitary wares, water pumps and water tanks) is clean and tidy and no operation will be held during sensitive hours.
- (f) The existing warehouses at the Site are covered by Short Term Waiver (STW) from the Lands Department (LandsD).

3. Compliance with the "Owner's Consent/Notification" Requirements

For the private lots portion, the applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, 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. 31A) are not applicable.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

- 5.1 The Site involves 2 previous planning applications (No. A/YL-LFS/99 and 320) for temporary warehouse and open storage of construction materials and temporary warehouse for storage of documents respectively. Application No. A/YL-LFS/99 was rejected by the Board upon review while Application No. A/YL-LFS/320 was approved with conditions by the Committee. Details of these applications and the Board's/Committee's decisions are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-LFS/99 (covering the majority of the Site and the land to its east) for temporary warehouse and open storage of construction materials for a period of 3 years was rejected by the Board upon review on 7.2.2003 for the reasons of not in line with the planning intention of the "REC" zone, insufficient information in the submission to demonstrate that the development would not have adverse traffic and drainage impacts on the surrounding areas and undesirable precedent for other similar planning applications.
- 5.3 Application No. A/YL-LFS/320 (covering the same Site) for temporary warehouse for storage of documents for a period of 3 years was approved by the Committee on 6.7.2018 on the grounds of not frustrating the planning intention of the "REC" zone, not incompatible with the surrounding uses, no adverse comments from concerned Government departments and no expected adverse impacts on environment, fire safety and traffic aspects.
- 5.4 Compared with the last previous application (No. A/YL-LFS/320), the current application was submitted by the same applicant for storage of different items on the same site with different layout and development parameters.

6. Similar Applications

Within the same "REC" zone, there are 3 similar applications (No. A/YL-LFS/104, 114 and 332) for temporary warehouse for storage of cleaning agents or scrap metal for a period of 3 years. They were rejected by the Committee on 4.4.2003, 29.8.2003 and 2.1.2019 respectively on the grounds of not in line with the planning intention of the "REC" zone, insufficient information in the submission to demonstrate that there would not have adverse environmental, traffic and/or drainage impacts on the surrounding area, and undesirable precedent for other similar planning applications. Details of these applications are summarized at **Appendix III** and the locations of these application sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently used as temporary warehouse for storage of sanitary wares, water pumps and water tanks; and
- (b) accessible via a local track leading from Deep Bay Road.
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its north are open storage yards for containers and factories which are existing uses and open storage yards for forklifts and vehicles which are suspected unauthorized developments (UD);
 - (b) to its immediate east is an open storage yard for containers and to its southeast is a warehouse, which are suspected UD;
 - (c) to its south is the "Green Belt" zone scattered with graves; and
 - (d) to its west is the "Residential (Group E)" zone with godowns which are existing uses.

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, LandsD (DLO/YL, LandsD):
 - (a) The Site comprises GL and 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) No permission is given for occupation of GL with an area of about 910m² included in the Site. The act of occupation of remaining GL without Government's prior approval is not allowed.
 - (c) The private land (PL) of Lot No. 1679 in D.D. 129 is covered by STW No. 1176 to permit structures for the purpose of "A Soy Sauce and Preserved Food Factory".

Should planning approval be given to the planning application, the (d) STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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. Moreover, the lot owner(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularity on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above 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 applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
 - (a) He has no adverse comment on 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 or reverse onto/from the public roads.
 - (c) The local track leading to the Site is not under Transport Department (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 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) The development would not involve operation of heavy vehicles nor dusty operations. Therefore, he has no adverse comment on the application.

- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) Should the application be approved, the applicant is 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' (COP).

Landscape

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - The Site, located at the east of Deep Bay Road, falls within an area (a) zoned "REC" on the OZP. The Site is the subject of two previous planning applications (No. A/YL-LFS/99 and 320). The last planning application No. A/YL- LFS/320 for the use of temporary warehouse for storage of documents was approved by the Committee on 6.7.2018 and she had no objection to the application from landscape planning perspective. However, the planning approval condition of implementation of tree preservation and landscape proposal has yet been complied with. No approved planning application of similar nature was observed within the same "REC" zone in the immediate vicinity. The current application seeks planning application for the temporary warehouse for storage of construction materials for a period of 3 years.
 - (b) According to the aerial photo of 2019 and site inspection in December 2019, the Site is hard paved and mainly occupied by two large warehouses which is similar to the proposed layout. *Melaleuca quinguenervia* (白千層) are generally planted along the site boundary. The Site is located in an area of miscellaneous rural fringe landscape predominated by tree groups with open storage yards and temporary structures in the proximity. Significant change to the landscape character arising from the applied use is not anticipated. Hence, she has no objection to the application from landscape planning perspective.
 - (c) According to the site inspection in December 2019, it is noted that 8 nos. of *Melaleuca quinquenervia* (白千層) were planted along the southern site boundary. However, there is no information on these trees in the proposed landscape and tree preservation plan. The applicant should clarify and indicate all existing trees in the landscape plan.
 - (d) The applicant is advised that approval of the application does not imply approval of the trees works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/Government department(s) direct to obtain necessary approval on tree works.

(e) In view that the implementation of landscape condition of the last planning application has not complied with, it is considered appropriate to impose an approval condition on submission and implementation of a revised landscape proposal to the satisfaction of Director of Planning or of Board should the application be approved by the Board.

Building Matters

- 9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (a) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under the application.
 - (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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.
 - (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (d) 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 (B(P)R) respectively.
 - (e) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Drainage

- 9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the application from drainage point of view.

- (b) Should the application be approved, 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.
- (c) The applicant is reminded that the development should neither obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the adjacent areas.
- (d) The applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

Geotechnical

- 9.1.8 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
 - (a) He has no objection to the application.
 - (b) The planning application covers unallocated GL and parts of two registered man-made slopes (Feature Nos. 2SW-C/C111 and 2SW-C/C117) (**Plan A-2**). LandsD should comment on the land disposal issues, in particular, regarding the inclusion of the standard Green Hatched Black Clause in the Special Conditions of land disposal documents for these man-made slopes.
 - (c) The applicant is advised to submit the proposed building and drainage works to BD for approval under the provision of the BO as necessary.

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 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general

building plans.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DLO/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 (DAFC);
 - (b) Project Manager (West), CEDD (PM(W), CEDD);
 - (c) Principal Project Coordinator/Special Duty, Drainage Services Department (PPC/SD, 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 24.7.2020, the application was published for public inspection. During the statutory public inspection period, 66 public comments were received from individuals (64 in standard letter in **Appendix IV-1** and two in **Appendices IV-2** and **IV-3**). All are objecting to the application and their reasons are summarized below:

- (a) the applied use is not in line with the planning intention of the "REC" zone. Steps and plans should be taken to realise the real planning intention for the district;
- (b) the applied use will generate adverse traffic, environmental and safety impacts to the surrounding area; and
- (c) GL in the Site has been used as a warehouse for many years.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials (sanitary wares, water pumps and water tanks) in the "REC" zone. Although the applied use is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public, there is yet to have any known development proposals to implement the zoned use on the OZP. Hence, approval of the application on temporary basis would not frustrate the planning intention of the "REC" zone.
- 11.2 The Site is located in an area predominantly used for factories, warehouses, open storage yards and temporary structures (**Plan A-2**). Therefore, the applied use is considered not incompatible with the surrounding uses.

- 11.3 Relevant Government departments, including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. The applied use would unlikely create significant adverse traffic, environmental, drainage, fire safety and landscape impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding uses, and to address the technical requirements of the 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 be advised to follow the latest "COP" in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved a previous application (No. A/YL-LFS/320) for temporary warehouse for storage of documents at the Site. Although the Committee has rejected 3 similar applications for temporary warehouse for storage of cleaning agents or scrap metal mainly on the grounds of insufficient information to demonstrate no adverse environmental, traffic and/or drainage impacts, the current application is different as there are no adverse departmental comments and adverse impacts on the surrounding areas are not anticipated. Approval of the application is in line with the Committee's previous decision.
- 11.5 There are 66 public comments received objecting to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.4 above are relevant.

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 above, the Planning Department considers that the temporary warehouse for storage of construction materials <u>could</u> <u>be tolerated</u> 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 **4.9.2023**. 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 medium and heavy goods vehicles exceeding 5.5 tonnes, including container vehicle/trailers/tractors, as proposed by the applicant, as

- defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored 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 during the planning approval period;
- (f) no vehicle is allowed to queue back or reverse onto/from the public road at any time during the planning approval period;
- (g) the implementation of the accepted 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 **4.6.2021**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a revised 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 **4.3.2021**;
- (j) in relation to (i) above, the implementation of the revised 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 4.6.2021;
- (k) 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 4.3.2021;
- (l) in relation to (k) 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 **4.6.2021**;
- (m) 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
- (n) if any of the above planning conditions (g), (i), (j), (k) or (l) 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.

Advisory Clauses

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

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 "REC" 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 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.

15. Attachments

Appendix I Application form received on 13.7.2020

Appendix Ia Further Information received on 14.8.2020 providing responses to

the comments of the Transport Department

Appendix Ib Further Information received on 28.8.2020 clarifying the site

details

Appendix II Previous Applications covering the Site

Appendix III Similar Applications within the same "REC" Zone

Appendices IV-1 Public Comments

to IV-3

Appendix V Advisory Clauses

Drawing A-1 Location Plan with Proposed Vehicular Access

Drawing A-2 Proposed Layout Plan

Drawing A-3 Proposed Landscape Proposal Proposed Drainage Proposal

Plan A-1 Location Plan Plan A-2 Site Plan Plan A-3 Aerial Photo Plans A-4a to 4b Site Photos

PLANNING DEPARTMENT SEPTEMBER 2020