

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K13/324

- Applicant** : Miss YU Wai Ha represented by Allgain Land Administrators Company
- Premises** : Portion of Unit 8B, G/F, Kowloon Bay Industrial Centre, 15 Wang Hoi Road, Kowloon Bay, Kowloon
- Floor Area** : About 11.08m²
- Lease** : (a) New Kowloon Inland Lot (N.K.I.L.) 5833
(b) Restricted for industrial and/or godown purposes (excluding any offensive trades)
- Plan** : Draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/31
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”) [Restricted to a maximum plot ratio (PR) of 12.0 and a maximum building height (BH) of 120 meters above Principal Datum (mPD) or the PR and BH of the existing building, whichever is the greater]
- Application** : Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’ use. The Premises occupies a major portion of Unit 8B on the ground floor (G/F) of an existing industrial building (i.e. Kowloon Bay Industrial Centre), which falls within an area zoned “OU(B)” on the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/31 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial building requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the Premises, with a total floor area of about 11.08m², is located on G/F of the subject building at its northeastern corner directly fronting Wang Hoi Road and Wang Tai Road (**Drawing A-1 and Plan A-2**). From the recent site inspection, the Premises is currently used

for money exchange shop (**Plans A-4 and A-5**) not covered by valid planning permission. Plans showing the layout of the G/F of the subject building and the Premises are at **Drawings A-1 and A-2**.

- 1.3 The Premises is subject to a previous planning application (No. A/K13/185) (**Plan A-3**) for 'Shop and Services (Real Estate Agency)' use submitted by a different applicant, which was approved with condition by the Metro Planning Committee (the Committee) of the Board on 16.7.2004. The current application is to apply for general 'Shop and Services' use not confining to specific shop types.
- 1.4 In support of the application, the applicant has submitted the application form received on 1.8.2022 (with supplementary information received on 5.8.2022) (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are set out in **Appendix I** and summarized as follows:

- (a) the proposed 'Shop and Services' use is in line with the planning intention of "OU(B)" zone;
- (b) the Premises located at G/F with its own direct shop frontage to the street will not adversely affect other users of the subject building; and
- (c) the application is to meet the current market trend for 'shop and services' use instead of industrial use.

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

The applicant is the sole "current land owner" of the Premises. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D) promulgated in September 2007 is relevant in the following aspects:

- (a) the "OU(B)" zone has been introduced to allow maximum flexibility in the use of existing industrial and I-O buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the "OU(B)" zone is primarily for general employment uses;
- (b) whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting

and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;

- (c) Fire Services Department (FSD) should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on G/F of an existing industrial/I-O building with and without sprinkler systems should not exceed 460m² and 230m² respectively. For any application which would result in a slight exceedance of the relevant floor area limit, the applicant has to demonstrate that the fire safety concern can be satisfactorily addressed and each case will be considered by the Board on its own merit. The above limits on commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building. These uses include bank, fast food counter, electrical shop, local provision store and showroom in connection with the main industrial use; and
- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and L/UL spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application

The Premises is the subject of a previous planning application (No. A/K13/185) (**Plan A-3**) for 'Shop and Services (Real Estate Agency)' use. The Premises under this application overlaps with major part of the premises under the approved Application No. A/K13/185, but the area of the Premises under this application is slightly smaller. The application was approved with condition by the Committee on 16.7.2004, and the only approval condition in relation to the fire services installation has been satisfactorily complied with.

6. Similar Applications

- 6.1 The Committee has so far considered 36 planning applications (including one previous application mentioned in paragraph 5 above) for various shop and services uses on the G/F of the subject industrial building (**Plan A-3**). Whilst 30 of these applications were approved by the Committee, 6 were rejected by the Committee for fire safety reasons. The details of the similar applications are shown in the table below.

Application No.	Unit	Applied Uses	Floor Area (about)	Date of Decision	Decision
Uses applicable for maximum permissible limit of 460m² for aggregate commercial floor area on G/F of an industrial building (with sprinkler systems), in accordance with FSD's Circular Letter No. 4/96 (Part X)					
A/K13/176	1C	Shop and Services (Real Estate Agency)	16.17m ²	12.3.2004 (lapsed)	Approved
A/K13/182	1B2	Wholesale trade cum Shop and Services (Stationery)	57.86m ²	16.7.2004	Approved
A/K13/183	1B1	Shop and Services (Real Estate Agency)	30.165m ²	16.7.2004	Approved
A/K13/185	8B	Shop and Services (Real Estate Agency)	18.85m ²	16.7.2004	Approved
A/K13/191	17	Shop and Services (Fast Food cum Retail Shop)	58.64m ²	28.1.2005	Approved
A/K13/192	5 (before divided into 5A and 5B)	Shop and Services (Fast Food cum Retail Shop)	130.68m ²	28.1.2005 (lapsed)	Approved
A/K13/193^	4 (Portion)	Shop and Services (Real Estate Agency/Retail Shop)	25.9m ²	18.2.2005	Approved
A/K13/194%	8A1, 8A2, 8A3, 8A4, 8A5 and 8A6	Temporary Shop and Services (Retail Shop and Real Estate Agency) for a Period of 3 Years	80m ²	18.3.2005 (lapsed)	Approved
A/K13/208	5A (Portion)	Temporary Shop and Services for a Period of 3 Years	24m ²	25.11.2005 (lapsed)	Approved
A/K13/213	5A	Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years	54m ²	7.4.2006 (revoked on 7.10.2006)	Approved
A/K13/216	3 (Portion)	Shop and Services (Convenience Store)	49m ²	20.10.2006 (revoked on 20.10.2008)	Approved
A/K13/218	5A	Temporary Shop and Services (Estate Agent Office) for a Period of 3 Years	54m ²	5.1.2007 (revoked on 5.1.2008)	Approved
A/K13/221	5B (Portion)	Temporary Shop and Services (Retail Uses) for a Period of 5 Years	45.9m ²	27.7.2007 (lapsed)	Approved for 3 years
A/K13/228%	8A1, 8A2, 8A3, 8A4,	Shop and Services (Retail Shop and Real Estate Agency)	80m ²	2.11.2007	Approved

Application No.	Unit	Applied Uses	Floor Area (about)	Date of Decision	Decision
	8A5A, 8A5B and 8A6				
A/K13/233	5A	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	54m ²	20.6.2008 (revoked on 20.9.2008)	Approved
A/K13/236	3 (Portion)	Shop and Services	49m ²	23.1.2009 (revoked on 23.7.2009)	Approved
A/K13/251	3 (Portion)	Shop and Services	48.88m ²	29.1.2010 (revoked on 29.7.2010)	Approved
A/K13/267	4A	Shop and Services	37.5m ²	15.4.2011	Approved
A/K13/268^	4B	Shop and Services	25.9m ²	15.4.2011	Approved
A/K13/288	5B (Portion)	Shop and Services	45.9m ²	7.2.2014	Approved
A/K13/303	1C	Shop and Services	15.85m ²	7.4.2017 (revoked on 7.4.2018)	Approved
A/K13/311	1C	Shop and Services	15.85m ²	16.11.2018	Approved
A/K13/312	16	Shop and Services	59.667m ²	16.8.2019	Approved
A/K13/314%	8A1, 8A2, 8A3, 8A4, 8A5A, 8A5B and 8A6	Shop and Services	80m ²	1.11.2019	Approved
Total floor areas of approved applications:			430.332m ² *		
A/K13/186	2	Shop and Services (Fast Food Shop)	219.458m ²	16.7.2004	Rejected#
A/K13/189	17	Shop and Services (Fast Food Shop)	58.46 m ²	15.10.2004	Rejected#
A/K13/207	3 (Portion)	Shop and Services (Convenience Store)	98.5m ²	25.11.2005	Rejected@
A/K13/215	3 (Portion)	Shop and Services (Convenience Store)	98.5m ²	28.4.2006	Rejected@
A/K13/227	2	Shop and Services (Retail Shop)	216.69m ²	28.9.2007	Rejected@
A/K13/229	2 (Portion)	Shop and Services	15.735m ²	9.5.2008	Rejected@
Total floor areas of rejected applications:			376.418 m ²		
Other applications approved by the Committee that floor area not accounted for aggregated commercial floor area in FSD's assessment					
A/K13/120	2	Bank Use	275m ²	16.5.1997	Approved
A/K13/179	4 (Portion)	Shop and Services (Retail Shop – Electrical Products)	26.83m ²	25.6.2004	Approved

Application No.	Unit	Applied Uses	Floor Area (about)	Date of Decision	Decision
A/K13/180	6 (Portion)	Shop and Services (Retail Shop – Metalware)	14.53m ²	16.7.2004	Approved
A/K13/184	1A	Shop and Services (Retail Shop – Metalware)	95.16m ²	16.7.2004	Approved
A/K13/206	2	Shop and Services (Bank)	223 m ²	11.11.2005	Approved
A/K13/319	2A	Shop and Services (Fast Food Shop)	30.41m ²	1.9.2020	Approved

- # Rejected reasons being that the use is considered not acceptable from fire safety point of view; and that the approval would set an undesirable precedent for similar applications in the industrial buildings.
- @ Rejected reasons being that the application is not acceptable from fire safety point of view.
- * The total floor area of 430.332m² have excluded the floor areas in overlapping premises and approved cases of which planning permission lapsed or has been revoked.
- ^ The premises of the approved application No. A/K13/268 overlaps with the premises of a previous application No. A/K13/193 for ‘Shop and Services (Real Estate Agency/Retail Shop)’ use, which was approved by the Committee on 18.2.2005.
- % The premises of the approved application No. A/K13/314 overlaps with the premises of a previous application No. A/K13/228 for ‘Shop and Services’ use, which was approved by the Committee on 2.11.2007.

6.2 According to TPB PG-No. 22D, the ‘Shop and Services’ use under application is subject to the limit on aggregate commercial floor area. Should the Committee approve this application, the total approved commercial floor area on the G/F of the subject building will remain unchanged as 430.332m² (since the Premises under the current application overlaps with major part of the premises of the previous application No. A/K13/185), which is within the maximum permissible limit of 460m² on G/F of an industrial or I-O building with a sprinkler system.

6.3 Since 2003, the Committee has also approved (with or without conditions) 66 similar applications for various ‘Shop and Services’ uses on G/F of the other industrial and I-O buildings under “OU(B)” zone in Kowloon Bay Business Area (KBBA).

7. **The Premises and its Surrounding Areas** (Plans A-1 and A-2 and site photos on Plans A-4 and A-5)

7.1 The Premises:

- (a) occupies a portion of Unit 8B on G/F of the subject building;
- (b) is currently used for money exchange shop; and
- (c) has entrance fronting Wang Hoi Road and Wang Tai Road, and is separated from the entrance to other floors of the building (**Plans A-3 and A-4**).

7.2 The subject building:

- (a) is a 11-storey industrial building with one basement floor for carpark use bounded by Wang Tai Road, Wang Hoi Road and Lam Fook Street;
- (b) is equipped with a sprinkler system; and
- (c) has the following uses:

Floor	Main Uses
B/F	Carpark
G/F	Money Exchange Shop (The Premises) ^[1] , Real Estate Agency, Shop and Services ^[1] , Eating Places ^[1] , Warehouse, Printing Company, Food Factory, Logistic Facility and Carpark
1/F – 10/F	Warehouses/Workshops, Factories, Showrooms, Printing Company, Offices, Art Studios, Shop and Services ^[2] and Private Club/Place of Entertainment ^[2]

[1] There is no record of valid planning approval granted for such uses at some of the units.

[2] Uses not allowed unless in the purpose-designed non-industrial portion on the lower floors of the building and such uses are separated from the industrial or I-O use located above by a buffer floor(s) of non-hazardous occupancy, and no industrial uses are located within that non-industrial portion.

7.3 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) the locality is mainly occupied by industrial or I-O buildings, including Kingsford Industrial Centre, Hoplite Industrial Centre and Shun Fat Industrial Building to its south, west and north respectively;
- (b) to its east across Wang Hoi Road is Telford House, a commercial development with a pedestrian footbridge across Wai Yip Street connecting to Telford Gardens and MTR Kowloon Bay Station; and
- (c) the units on the G/F of the neighbouring industrial buildings are mainly used for shop and services purposes such as banks, money exchange shops, convenient stores, metalware shops, car beauty shops, real estate agencies, fruit shops and eating places.

8. Planning Intention

The planning intention of “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

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/Kowloon East (DLO/KE, LandsD):

- (a) The Premises falls within New Kowloon Inland Lot No. 5833 (“the Lot”) which is held under Conditions of Sale No. 11468 dated 15.1.1981 and is restricted to industrial and/or godown purposes, excluding any offensive trades.
- (b) The proposed use of “Shop and Services” is in contravention of the lease conditions of the Lot. If the planning application be approved by the Board, the owner of the Premises, if intended to use the Premises, shall apply to LandsD for a waiver/lease modification to implement the proposal. Upon receipt of the waiver/lease modification, it will be considered by LandsD acting in the capacity as the landlord but there is no guarantee that the waiver/lease modification application would be approved. In the event the waiver/lease application is approved, it will be subject to such terms and conditions, including, among others, the payment of waiver fee/premium and administration fee as may be imposed by LandsD at its own discretion. Approval by the Board shall not prejudice the Government’s right to take enforcement action against any breach of lease conditions identified at the Premises.
- (c) Upon receipt of the application of waiver/lease modification, if applied by the owner of the Premises, they are required to demonstrate the dimensions and calculation of the floor area in all respects to the satisfaction of LandsD.

Fire Safety

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

- (a) No in-principle objection to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of FSD. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) means of escape separated from the industrial portion is available for the Premises.
- (b) The building is protected with a sprinklers system so that the maximum permissible aggregated commercial

floor area on G/F is 460m² in accordance with TPB PG-No. 22D. The applied use should be counted up to the aggregated commercial floor area.

- (c) Regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the “Code of Practice for Fire Safety in Buildings” which is administered by the Building Authority.
- (d) The applicant’s attention is drawn to the “Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises” if the application is approved.

Buildings Matters

9.1.3 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) No objection to the application subject to all building works/change in use is in compliance with the Buildings Ordinance (BO).
- (b) The applicant is advised to engage an Authorized Person to ensure that any building works/change of use are implemented in compliance with the BO, including (but not limited to) the following:
 - (i) adequate means of escape should be provided in accordance with Building (Planning) Regulation (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
 - (ii) fire barrier with adequate fire resisting construction between the Premises and the remaining portion of the building should be provided in accordance with Building (Construction) Regulation 35 and the FS Code;
 - (iii) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008;
 - (iv) adequate sanitary fitments should be provide to the premises in accordance with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations;
 - (v) if the applied use under application is subject to the issue of a licence, the applicant is reminded that any existing structures on the application 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 licensing authority;

- (vi) for unauthorized building works (UBW) erected on private land/buildings, 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 BO; and
- (vii) the applicant's attention is drawn to Practice Note for Authorized persons, Registered Structural Engineers and Registered Geotechnical Engineer APP-47 that the Building Authority has no powers to give retrospective approval or consent for any UBW.

Traffic Aspect

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

No objection to the application from the traffic engineering perspective, provided that all the parking and loading/unloading activities (if any) generating from the operation of the Premises are carried out within the Premises.

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

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Director of Food and Environmental Hygiene;
- (e) Commissioner of Police; and
- (f) District Officer/Kwun Tong, Home Affairs Department.

10. Public Comment received During the Statutory Publication Period

On 9.8.2022, the application was published for public inspection. During the first three weeks of statutory public inspection period, which ended on 30.8.2022, no public comment was received.

11. Planning Considerations and Assessment

11.1 The application is to seek planning permission for 'Shop and Services' use at the Premises, which is currently used as money exchange shop without valid planning permission. The planning intention of "OU(B) zone is for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the applied use would not induce adverse fire safety and environmental impact. The

applied use is considered generally in line with the planning intention of the “OU(B)” zone.

- 11.2 KBBA is being transformed into commercial/business use with a number of similar applications for ‘Shop and Services’ use approved for G/F units of other industrial or I-O buildings in the vicinity of the Premises. The applied use is compatible with the changing land use character of the area.
- 11.3 The applied use at the Premises complies with TPB PG-No. 22D in that it would not induce adverse fire safety, traffic and environmental impacts on the developments within the subject building and the adjacent areas. Relevant Government departments consulted including D of FS, C for T and CBS/K, BD have no objection to/no adverse comment on the application.
- 11.4 As confirmed by D of FS, the subject building is protected by a sprinkler system and subject to a maximum permissible limit of 460m² for aggregated commercial floor area on the G/F in accordance with TPB PG-No. 22D. The current aggregate commercial floor area for ‘Shop and Services’ use on the G/F of the subject building is 430.332m². Should the Committee approve the planning application, the aggregate commercial floor area on G/F of the subject building will remain unchanged as 430.332m², which is still within the maximum permissible limit of 460m² as stated above. In this regard, D of FS has no objection to the application subject to an approval condition on the submission and implementation of the proposal for fire safety measures as detailed in paragraph 12.2 (a) below.
- 11.5 No public comment was received on the application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the ‘Shop and Services’ use under application is already in operation. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of a proposal on the fire safety measures within six months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.3.2023; and
- (b) if the above planning condition (a) 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 II**.

- 12.3 There is no strong reason to recommend rejection of the application.

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 date when validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 1.8.2022 (with Supplementary Information received on 5.8.2022)
Appendix II	Recommended Advisory Clauses
Drawing A-1	Ground Floor Plan of the Subject Building
Drawing A-2	Floor Plan of the Premises
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Plan Showing Similar Applications on the G/F of the Subject Building
Plans A-4 and A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**