

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-FTA/203**

<b><u>Applicant</u></b>	: Mr. TANG Chung-yan represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	: Lots 120 S.A and 126 S.A (Part) in D.D. 52 and Adjoining Government Land, Man Kam To Road, Fu Tei Au, Sheung Shui, New Territories
<b><u>Site Area</u></b>	: About 1,050 m <sup>2</sup> (including Government Land of about 440 m <sup>2</sup> or 41.9% of the Site)
<b><u>Lease</u></b>	: (a) Block Government Lease (demised for agricultural use) (about 610 m <sup>2</sup> or 58.1% of the Site) (b) Government Land
<b><u>Plan</u></b>	: Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
<b><u>Zoning</u></b>	: “Other Specified Uses” annotated “Port Back-Up” (“OU(PBU)”)
<b><u>Application</u></b>	: Temporary Warehouse for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary warehouse for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “OU(PBU)” on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16. According to the Notes of the OZP, ‘warehouse (excluding dangerous goods godown)’ in the “OU(PBU)” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The southern portion of the Site is currently occupied by storage use without valid planning permission.
- 1.2 The site is accessible from Man Kam To Road via a local road. According to the applicant, three single-storey structures of about 3.5 to 8.5 m in height, with a total floor area of about 796 m<sup>2</sup> are proposed within the Site for warehouse (about 660m<sup>2</sup>), rain shelter (about 130 m<sup>2</sup>) and electricity meter room (about 6 m<sup>2</sup>) respectively. One private car parking space (5 m x 2.5 m) and one loading/unloading space for light goods vehicle (7 m x 3.5 m) are to be provided. The operation hours of the application site are between 9:00 a.m. to 5:00 p.m. Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed layout plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-2**.

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

- (a) Application form with attachments received on 24.5.2021 (Appendix I)
  - (b) Further Information (FI) received on 15.7.2021<sup>^</sup> (Appendix Ia)
- <sup>^</sup> accepted and exempted from publication and recounting requirements

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form and attachments and FI at **Appendices I and Ia** respectively. They can be summarized as follows:

- (a) the temporary warehouse use under the application is in line with the planning intention of “OU(PBU)” zone. It is temporary in nature and is compatible with the surrounding areas with open storage use and port back-up activities;
- (b) the Site is currently used for storage of metal wares and the tenancy agreement would terminate in Q3 2021. The applicant intends to use the Site for storage of electronic goods including mobile phones and tablets with two staff working on Site during operation hours;
- (c) given the temporary warehouse is small in scale, there would only be insignificant/minimal environmental, noise, traffic and drainage impacts to the surrounding areas. The activities would be carried out in enclosed structures and proposed drainage plan is submitted; and
- (d) there are similar approved applications in the vicinity and favourable consideration could be given to the subject application.

## 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.31A) by sending notice to the Sheung Shui District Rural Committee by registered mail and posting notice at the Site. For the adjoining Government land, TPB PG-No.31A is not applicable to the application. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

The Site is currently not the subject of any active enforcement action. Should there be sufficient evidence to prove that the current use on Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

## 5. **Previous Application**

There is no previous application for the Site.

## **6. Similar Applications**

- 6.1 There are six similar applications (No. A/NE-FTA/124, 155, 157, 158, 180 and 189) for proposed temporary warehouse/ warehouse developments in the vicinity of the Site (**Plan A-1**). Five applications (No. A/NE-FTA/124, 155, 157, 158 and 189) were approved with conditions by the Committee between 2013 and 2019 mainly on the consideration that the uses were generally in line with the planning intention of “OU(PBU)” zone; the developments were compatible with the surrounding land uses; and the technical concerns of Government departments could be addressed through the implementation of relevant approval conditions. Applications No. A/NE-FTA/124 and 158 were revoked in 2013 and 2016 respectively due to non-compliance with approval conditions.
- 6.2 Application No. A/NE-FTA/180 for temporary warehouse and storage of clothing with ancillary facilities was rejected by the Committee in October 2017 mainly on the considerations that the applicant failed to demonstrate in the submission that the development would have no adverse traffic impact on the surrounding area.
- 6.3 Details of the similar applications are at **Appendix II** and their locations are shown on **Plan A-1**.

## **7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4b)**

- 7.1 The Site is:
- (a) hard-paved and fenced off;
  - (b) occupied with a warehouse and some temporary structures; and
  - (c) accessible via a local road leading to Man Kam To Road (**Plan A-2**).
- 7.2 The surrounding areas have the following characteristics:
- (a) to the north and northwest are parking of vehicles, a shop with storage of construction materials, some graves in an area zoned “Green Belt” and Hung Kiu San Tsuen;
  - (b) to the northeast and east are warehouses, open storage and some domestic structures;
  - (c) to the further southeast and south are a logistic centre, parking of vehicles, vacant land and domestic structures; and
  - (d) to the west and further west across Man Kam To Road are some temporary structures for storage/ domestic uses and a vehicle repairing workshop.

## **8. Planning Intention**

The planning intention of the “OU(PBU)” zone is intended primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.

## **9. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) the Site comprises Lots 120 S.A and 126 S.A in D.D. 52 which are Old Schedule Lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access to the Site and there is no guarantee that any adjoining Government land (GL) will be allowed for the vehicular access to the Site for the proposed use;
- (b) the existing structures on the Site were erected without approval from his office and are not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the structures concerned;
- (c) the GL adjoining the application lots is being occupied without prior approval from his office. The applicant should cease occupation of the GL concerned. His office reserves the right to take lease enforcement actions against the irregularities;
- (d) the application lots are covered by a Letter of Approval (LoA) No. 5832 for erection of temporary structures for agricultural use. Given the dimensions of the existing structures on the Site do not tally with those of his record, his office would investigate and take necessary action on the LoA if situation warrants; and
- (e) should the application be approved, the owner of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area and structures concerned. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee, rent and administrative fees as considered appropriate by his office.

## **Traffic**

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

- (a) he has no in-principle objection to the application from traffic engineering point of view; and
- (b) the vehicular access between the Site and Man Kam To Road is not managed by Transport Department. The applicant should seek comment from the responsible party.

## **Environment**

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

- (a) he has no in-principle objection to the application;
- (b) should there be any sewage generated from the proposed temporary uses, proper collection, treatment and disposal should be provided as per “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (CoP)”. The applicant should be reminded of S(1) of Notes to Annex I in CoP that ‘In case of unavailability of public sewer, a septic tank and soakaway (STS) pit should be provided’. The design, construction, operation and maintenance of STS should follow ProPECC PN 5/93 and be certified by Authorised Person; and
- (c) should the application be approved, the applicant should be reminded of his obligation to comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant environmental measures given in the CoP during construction and operation stages of the proposed use.

## **Landscape**

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) the Site is not located in landscape sensitive areas and significant adverse landscape impact arising from the temporary use under the application is not anticipated; and
- (c) based on the aerial photo of 2020 on **Plan A-3**, since there is no prominent public frontage surrounding the Site and existing vegetation to the north outside the Site is observed, it is not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

### **Drainage**

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

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

### **Building Matters**

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

- there is no record of submission of the proposed building/structure to the Building Authority (BA) for approval. For any new proposed buildings, his advisory comments are at **Appendix IV**.

### **Fire Safety**

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to satisfaction of his department;
- (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. In addition, the applicant should be also advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **District Officer's Comments**

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

- (a) he has consulted the locals regarding the application. One out of three Indigenous Inhabitant Representatives (IIRs) of Sheung Shui Heung objects to the application that adjoining Government land should not be involved; the Site is located near the permitted burial grounds and the

applied use would affect the well-being of future generations; and

- (b) the Chairman of Sheung Shui District Rural Committee (SSDRC), the incumbent North District Council (NDC) member of the subject constituency, the Chairman of Fung Shui Area Committee, two IIRs and the RR of Sheung Shui Heung have no comment on the application.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (d) Commissioner of Police (C of P).

#### **10. Public Comment Received During Statutory Publication Period (Appendix III)**

On 1.6.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from a NDC member indicating no comment on the application.

#### **11. Planning Considerations and Assessments**

- 11.1 The application is for a temporary warehouse for a period of 3 years in an area zoned “OU(PBU)” on the OZP (**Plan A-1**). The temporary warehouse use under application is considered generally not in conflict with the planning intention of the “OU(PBU)” zone which is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.
- 11.2 The proposed temporary warehouse, involving three single-storey structures of about 3.5 to 8.5 m in height with a total floor area of about 796 m<sup>2</sup>, is considered not incompatible with the surrounding area intermixed with warehouse, logistic centre, sites for open storage/ storage uses, parking of vehicles, vehicle repair workshop and vacant/ temporary domestic structures (**Plans A-2 and A-3**). Given the Site is not located in landscape sensitive areas and significant adverse landscape impact arising from the temporary use is not anticipated, CTP/UD&L of PlanD has no objection to the application from landscape planning perspective.
- 11.3 C for T has no in-principle objection to the application from traffic engineering point of view. DEP also has no in-objection to the application and the applicant should be advised to comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant environmental measures given in the CoP. Other Government departments consulted, including CE/MN of DSD, D of FS, CE/C of WSD and C of P have no objection on the application.

- 11.4 There are six similar applications (No. A/NE-FTA/124, 155, 157, 158, 180 and 189) involving five sites in the vicinity of the Site (**Plan A-1**). Except for application No. A/NE-FTA/180 which was rejected in 2017 on the consideration that the applicant failed to demonstrate in the submission that the development would have no adverse traffic impact on the surrounding areas, all other five applications were approved with conditions by the Committee between 2013 and 2019 mainly on the consideration that the uses were generally compatible with the planning intention of “OU(PBU)” zone; the developments were compatible with the surrounding land uses; and the technical concerns of Government departments could be addressed through the implementation of relevant approval conditions. The planning circumstances of the current application are similar to those approved applications.
- 11.5 Regarding the local objections conveyed by DO(N) in paragraph 9.1.8 above, the Government department’s comments and the planning assessment above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and local objections conveyed by DO(N) in paragraph 9.1.8 above, the Planning Department has no objection to the application.
- 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 23.7.2024. The following conditions of approval and advisory clauses are suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 5:00 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) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.1.2022;
- (d) in relation to (c) above, the provision of drainage facilities within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.4.2022;
- (e) the submission of proposals for fire service installations and water supplies for firefighting within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.1.2022;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.4.2022;
- (g) if any of the above planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and



shall be revoked immediately without further notice; and

- (h) if any of the above planning conditions (c), (d), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

#### Advisory Clauses

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

12.3 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 the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with Attachment received on 24.5.2021
<b>Appendix Ia</b>	Further Information received on 15.7.2021
<b>Appendix II</b>	Similar s.16 Applications for Warehouse within/partly within the “OU(PBU)” zone in the vicinity of the Site in the Fu Tei Au and Sha Ling area
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2021**