

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

**APPLICATION NO. A/NE-FTA/209**

- Applicants** : Mr. Liu Fung Chun, the Manager of Tin Hau Temple Alias Tin Hau Miu (Lot 140 in D.D. 52) and Mr. Liu Sui Biu, the Manager of Liu Chuk Lau Tso (Lot 142 in D.D. 52) represented by M&D Planning and Surveyors Consultant Ltd.
- Site** : Lots 140 (Part), 142 (Part) and Adjoining Government Land in D.D. 52, Fu Tei Au, Sheung Shui, New Territories
- Site Area** : About 2,169.59 m<sup>2</sup> (including about 134.8 m<sup>2</sup> of Government Land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)  
(about 93.8% of the Site)  
(ii) Government land (about 6.2% of the Site)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zoning** : "Other Specified Uses (Port Back-up Uses)" ("OU(PBU)")
- Application** : Proposed Temporary Container Storage and Repair Yard with Ancillary Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission for a proposed temporary container storage and repair yard with ancillary office for a period of 3 years at the application site (the Site). The Site falls within an area zoned "OU(PBU)" on the approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16 (**Plan A-1**). According to the Notes of the OZP, 'Container Storage/Repair Yard' is a Column 2 use in the "OU(PBU)" zone requiring planning permission from the Town Planning Board (the Board). The Site is currently partly vacant and partly occupied by some containers without valid planning permission.
- 1.2 The Site is accessible via a local track branching off from Man Kam To Road (**Plan A-2**). According to the applicants, the proposed development comprises 6 single-storey temporary structures (about 2.6 to 5m in height) for container vehicle repair yard, office, storeroom, traffic control room, and portable toilet use with a total floor area of about 423m<sup>2</sup> (**Drawing A-1**). The remaining uncovered area of the Site would be used for storage of containers and vehicular manoeuvring space. Two private car parking spaces and three container vehicle parking spaces would be provided within the Site (**Drawing A-1**). The operation hours of the Site are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The proposed indicative

layout plan submitted by the applicants is at **Drawing A-1**.

- 1.3 Part of the Site is the subject of a previous application for proposed temporary open storage uses of construction machinery and construction materials submitted by a different applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in October 2014.
- 1.4 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with attachments received on 17.12.2021 (Appendix I)
  - (b) Further Information (FI) on 7.2.2022^ (Appendix Ia)
  - (c) FI on 11.3.2022^ (Appendix Ib)
- ^ accepted and exempted from publication
- 1.5 On 28.1.2022, the Committee decided to defer making a decision on the application for two months pending the preparation of FI to address the departmental comments. The applicants submitted FI on 11.3.2022 (**Appendix Ib**). The application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the Application Form and the FI at **Appendices I, Ia and Ib** respectively as summarised below:

- (a) the proposed development is in line with the planning intention of the “OU(PBU)” zone;
- (b) it could fully utilise the land resources and create employment opportunities;
- (c) it is not incompatible with the surrounding land uses which are mainly open storage yards, warehouses and container storage use;
- (d) the Site falls within Category 1 area under the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F). There are similar applications approved in the vicinity of the Site;
- (e) prior booking is required for vehicles entering the Site. To ensure the safety of users, the applicant also undertakes to provide traffic signage and will appoint traffic control officers to direct traffic at the Site;
- (f) an U-channel for drainage is proposed to be installed at the Site to collect stormwater and minimise flood risk to the surroundings;
- (g) the applicant would follow the requirements of ProPECC PN 5/93 on the design and construction of septic tank and soakaway system to avoid any potential water quality impacts to the surrounding areas; and
- (h) adverse traffic, environmental and drainage impacts are not anticipated.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicants are one of the current land owners and have 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 posting notice at the Site and sending registered post to the Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the adjoining Government land, TPB PG-No.31A is not applicable.

### **4. Background**

Part of the Site is subject to a planning enforcement action against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice was issued on 18.6.2021 requiring discontinuation of the UD by 18.8.2021. As revealed in recent site inspection, the UD had not been discontinued upon expiry of the notice, prosecution action may be followed.

### **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 is relevant to the application. The Site falls within Category 1 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

### **6. Previous Application**

6.1 Part of the Site is the subject of a previous application (No. A/NE-FTA/143) for proposed temporary open storage of construction machinery and construction materials submitted by a different applicant. The application was approved by the Committee on 17.10.2014 mainly on the grounds that the proposed development generally complied with the then TPB PG No.13E in that there were no major adverse departmental comments on the application; and the concerns of relevant government departments could be addressed through the implementation of approval conditions. The application was subsequently revoked due to non-compliance of timely limited approval conditions.

6.2 Details of the previous application are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

### **7. Similar Application**

There are no similar applications for temporary container storage and repair yard uses within the same “OU(PBU)” zone in the vicinity of the Site in the Fu Tei Au area (**Plan A-1**).

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

8.1 The Site is:

- (a) hard-paved and fenced, mainly vacant with some containers found in the northern portion of the Site without valid planning permission; and
- (b) accessible from Man Kam To Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is fallow agricultural land and vacant structures;
- (b) to the east is vacant land with some temporary domestic structures;
- (c) to the south is a mix of temporary domestic structures and open storage uses, car repairing workshop and fallow agricultural land; and
- (d) to the further west are open storage yards, warehouses, a temple, intermixed with some temporary domestic structures.

## **9. Planning Intention**

The planning intention of the "OU(PBU)" zone 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.

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

- 10.1 The following government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) the Site comprises Lot Nos. 140 and 142 in D.D. 52 and adjoining Government Land (GL). The lots are Old Schedule Lots held under the Block Government Lease (demised for agriculture use) without any guaranteed right of access. The applicants should make their own arrangement for acquiring access to the Site. There is no guarantee that any adjoining GL will be allowed for vehicular access to the Site;
- (b) an unauthorised structure is erected on Lot No. 142 in D.D. 52 and a portion of adjoining GL is occupied without prior approval from her office. Her office reserves the right to take necessary lease enforcement actions against the structure on private lot and land control action against the irregularities on GL as appropriate;
- (c) according to the proposal, a toilet would be erected on the Site. The applicants should note that any proposed toilet facility should meet the current health requirements; and

- (d) if the planning application is approved, the owners of the lots concerned shall apply to her office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area and to regularise the unauthorized structures on the Site. 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 her office.

### **Traffic**

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

- (a) based on the FI submitted by the applicants including the information on a swept path analysis illustrating the vehicular movement within the Site and the width of ingress/egress as well as the proposed traffic management measures to ensure pedestrian safety, she has no further comment on the application from the traffic engineering point of view and considers that the traffic impact induced by the proposed development is tolerable; and
- (b) should the application be approved, the applicants are required to implement the traffic management measures, i.e., the erection of traffic signage and deploy traffic control officers to direct traffic at the Site as proposed by the applicant, to her satisfaction.

### **Environment**

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

- (a) based on the FI submitted by the applicants, it is understood that the applicants are committed to follow the requirements of ProPECC PN 5/93 on the design and construction of septic tank and soakaway system to avoid any potential water quality impacts to the surrounding areas, he has no further comment on the application from the water quality perspective; and
- (b) the applicants are advised to implement water pollution control measures as listed in ProPECC PN 1/94 during construction phase; and to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites and Temporary Uses' (CoP) during the operation phase to minimise any possible environmental nuisances and water quality pollution.

### **Landscape**

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

- (a) no in-principle objection to the application from the landscape planning perspective as the Site falls within a "OU(PBU) zone", which is a non-landscape sensitive zoning and no significant landscape impact arising from the proposed development is anticipated; and

- (b) should the application be approved, it is considered not necessary to impose a landscape condition in the planning permission.

### **Drainage**

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

- (a) no objection to the application; and
- (b) should the application be approved, the applicants are required to submit and implement a drainage proposal for the Site to ensure that it will not cause any adverse drainage impact to the adjacent area. Detailed comments are appended in **Appendix V**; and
- (c) the Site is in an area where no public sewerage connection is available.

### **Fire Safety**

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

- (a) no objection in-principle to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. His detailed comments are appended at **Appendix V**.

### **Building Matters**

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

- (a) no objection in principle under the Buildings Ordinance to the proposed use on the Site. There is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in position to offer comments on their suitability for the use related to the application; and
- (b) his advisory comments are at **Appendix V**.

### **Nature Conservation**

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

- (a) no objection to the application from nature conservation point of view as the Site is paved and disturbed; and
- (b) his advisory comments are at **Appendix V**.

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

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

- he has consulted the locals regarding the application. The Chairman of Sheung Shui Rural District Committee and the Chairman of Fung Shui Area Committee has no comment on the application. Three Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Sheung Shui Heung object to the proposal on the grounds that the proposed development would cause traffic and drainage impacts to the surrounding areas and affect the local fung shui.

10.2 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); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

### **11. Public Comments Received During Statutory Publication Period (Appendix IV)**

On 24.12.2021, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received. The Chairman of Sheung Shui Rural Committee indicates no comment on the application. An individual raises objection to the application mainly on the grounds that the proposed development would cause adverse traffic and environmental impacts on the surrounding areas; and increase of fire risk and pose threats to the quality of life and safety of the villagers.

### **12. Planning Considerations and Assessments**

- 12.1 The application is for a proposed temporary container storage and repair yard with ancillary office for a period of 3 years at the Site zoned "OU(PBU)" (**Plan A-1**). The proposed development is considered generally in line 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.
- 12.2 The Site falls within Category 1 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:
  - Category 1 areas: considered suitable for open storage and port-backup uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.3 The proposed development is considered not incompatible with the surrounding land uses, which comprise mainly warehouses, open storage yards and some temporary structures (**Plan A-2**). Since significant adverse landscape impact arising from the temporary use under the application is not anticipated, CTP/UD&L, PlanD has no objection from landscape planning perspective.
- 12.4 C for T, upon review of the further information submitted by the applicants, has no further comment on the application from the traffic engineering point of view. Other government departments consulted, including DEP, CE/MN, DSD and D of FS, have no objection to or no adverse comment on the application.
- 12.5 The application generally complies with the TPB PG-No. 13F in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through implementation of approval conditions.
- 12.6 Part of the Site is the subject of a previous application No. A/NE-FTA/143 for temporary open storage of construction machinery and construction materials (**Plan A-1**). The application was approved by the Committee in 2014 mainly on the grounds that the proposed development generally complied with the then TPB PG No.13E in that there were no major adverse departmental comments on the application; and the concerns of relevant government departments could be addressed through implementation of approval conditions. There has been no major change in the planning circumstances since the approval of the previous application for the open storage use at the Site.
- 12.7 There are no similar applications for temporary container storage and repair yard within the same "OU(PBU)" zone in the vicinity of the Site.
- 12.8 Regarding the local comments conveyed by DO (N) of HAD and public comments on the application as detailed in paragraphs 10.1.9 and 11 above, government departments' comments and planning assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account local comments conveyed by DO (N) of HAD and public comments as detailed in paragraphs 10.1.9 and 11 respectively, the Planning Department has no objection to the application.
- 13.2 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 1.4.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) 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 1.10.2022;
- (b) in relation to (a) 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 1.1.2023;



- (c) the submission of proposals for water supplies for fire-fighting and fire service installations 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 1.10.2022;
- (d) in relation to (c) above, the provision of water supplies for fire-fighting and fire service installations 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 1.1.2023;
- (e) the implementation of traffic management measures within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.1.2023;
- (f) if any of the above planning conditions (a), (b), (c), (d) or (e) 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 V**.

13.3 There is no strong reason to recommend rejection to the application.

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

### **15. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 17.12.2021
<b>Appendix Ia</b>	Further Information received on 7.2.2022
<b>Appendix Ib</b>	Further Information received on 11.3.2022
<b>Appendix II</b>	Relevant Extract of TPB Guidelines No. TPB PG-No. 13F for Application for Open Storage and Port Back-up Uses
<b>Appendix III</b>	Previous Application
<b>Appendix IV</b>	Public Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plans A-4a to A-4c    Site Photos**

**PLANNING DEPARTMENT  
APRIL 2022**