

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

**APPLICATION NO. A/TM/562**

<b><u>Applicant</u></b>	:	Flourish Marketing Communications Limited
<b><u>Premises</u></b>	:	Workshop Q (Portion), G/F, Delya Industrial Centre, 7 Shek Pai Tau Road, Tuen Mun, New Territories
<b><u>Floor Area</u></b>	:	About 28.7m <sup>2</sup>
<b><u>Lease</u></b>	:	Tuen Mun Town Lot (TMTL) No. 164 held under New Grant No. 2285 - Restricted to industrial and/or godown purposes (excluding offensive trade)
<b><u>Plan</u></b>	:	Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
<b><u>Zoning</u></b>	:	“Industrial” (“I”) <i>[Restricted to a maximum plot ratio (PR) of 9.5 and maximum building height (BH) of 100mPD, or the PR and BH of the existing building, whichever the greater]</i>
<b><u>Application</u></b>	:	Shop and Services (Real Estate Agency)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Real Estate Agency)’ use. The Premises is located on the ground floor of an existing building known as Delya Industrial Centre (the subject building), which falls within an area zoned “I” on the approved Tuen Mun OZP No. S/TM/35 (**Plans A-1 and A-2**). According to the Notes for the “I” zone, ‘Shop and Services (not elsewhere specified) (ground floor only except Ancillary Showroom which may be permitted on any floor)’ use requires planning permission from the Town Planning Board (the Board). The Premises is being used for the applied use without valid planning permission.
- 1.2 The Premises (in whole or in part) is the subject of four previous applications. The last application (No. A/TM/494) for “Shop and Services (Real Estate Agency)” use was approved with conditions on a temporary basis for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 11.11.2016. The approval condition in relation to the submission and

implementation of fire service installations was complied with. The application lapsed on 12.11.2019.

1.3 The Premises occupies portion of workshop Q on the ground floor of the subject building with a total area of about 28.7m<sup>2</sup>. As shown on the floor plan on **Plan A-2**, the Premises has direct frontage at Tsing Yeung Circuit. The layout plans submitted by the applicant are attached in **Drawings A-1 and A-2**.

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

- (a) Application form with attachments received on 31.3.2021 **(Appendix I)**
- (b) Supplementary information (SI) received on 7.4.2021 and 12.4.2021 providing plans and replacement pages **(Appendices Ia and Ib)**
- (c) Further information (FI) received on 12.5.2021 providing responses to comments of Director of Fire Services (D of FS) **(Appendix Ic)**
- (d) FI received on 17.5.2021 providing responses to comments of Commissioner for Transport (C for T) **(Appendix Id)**  
*[(c) and (d) above exempted from publication and recounting requirements]*

## **2. Justification from the Applicant**

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

There are limited ground floor areas for commercial uses in the surrounding industrial area. The Premises is easily accessible by the properties' owners and clients, which would facilitate property transactions.

## **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 obtaining consent of three 'current land owners' and notifying the remaining 'current land owner'. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Use/Development within "Industrial" Zone (TPB PG-No. 25D) is relevant to this application. For a proposed commercial use in an industrial building, the following main planning criteria are relevant:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) the inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (c) the Fire Services Department 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 the ground floor of an existing industrial building with and without sprinkler systems should as a general principle not exceed 460m<sup>2</sup> and 230m<sup>2</sup> respectively. The limits on aggregate 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 building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Separate means of escape should be available for the commercial portion.

## **5. Previous Applications**

Part or the whole of the Premises is the subject of four previous applications (No. A/TM/111, 226, 335 and 494) for shop and services use submitted by different applicants (**Plans A-1 and A-2a**). They were approved or approved with conditions by the Committee on 15.3.1991, 5.12.1997, 28.10.2005 and 11.11.2016 respectively mainly on the considerations that the applied use was not incompatible with industrial/ industrial-related uses in the surroundings, complied with the Board's guideline for commercial uses in industrial building within "I" zone and has no adverse traffic, environmental and fire safety impacts. The latest planning permission (No. A/TM/494) lapsed on 12.11.2019. Details of the previous applications are at **Appendix II**.

## **6. Similar Applications**

- 6.1 The Committee/Board has considered 10 similar applications for shop and services use including retail shop, supermarket and barber shop at the ground floor units of the subject building. Amongst then, seven applications were approved by the Committee, and three were rejected by the Committee or the Board upon review mainly on the ground of fire safety. Details of these similar applications are at **Appendix III** and their locations are shown in **Plan A-1**.
- 6.2 Amongst the seven approved applications, only the following application is still valid and should be counted towards the maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area in the ground floor of the subject industrial building with sprinkler system according to TPB PG-No. 25D:

Application No.	Application Premises (G/F)	Proposed Uses/ Development	Floor Area (about) (m <sup>2</sup> )	Date of Consideration	Decision
A/TM/247	S (Portion)	Hardware Retail Shop	14.45	11.6.1999	Approved
<b>Total Approved Floor Area: 14.45m<sup>2</sup><sup>[1]</sup></b>					

<sup>[1]</sup> The total approved floor area of 14.45m<sup>2</sup> has excluded the floor areas within the overlapping premises and cases of which planning permission have lapsed or been revoked.

6.3 According to TPB PG-No. 25D, the limit on aggregated commercial floor area is applicable to the applied use. If the application is approved, the aggregate commercial floor area will be 43.15m<sup>2</sup>, which is within the maximum permissible limit of 460 m<sup>2</sup> for the subject building with a sprinkler system.

**7. The Premises and its Surrounding Areas(Plans A-1 to A-3 and photos on Plans A-4a to A-4b)**

7.1 The Premises is:

- (a) situated on the ground floor of an existing 17-storey industrial building known as Delya Industrial Centre;
- (b) currently used for the applied use without a valid planning permission; and
- (c) directly accessible from Tsing Yeung Circuit.

7.2 The existing main uses of the subject building by floors are summarised below :

Floor	Main Uses
G/F	<b>The Premises</b> , hardware workshop, hardware store, canteen, engineering company, car workshop and retail shop <sup>[1]</sup>
1/F	Furniture shop <sup>[1]</sup>
2/F	Car parking spaces/ loading & unloading area
3/F -16/F	Godown, canteen, office <sup>[1]</sup> , workshop, factory, studio, retail shop <sup>[1]</sup> and Xiqu Club <sup>[1]</sup>

<sup>[1]</sup> No record of planning approval granted for these eating place, shops, office and club.

7.3 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) the subject building is located at the northern part of Tuen Mun Industrial Area 9 which is predominately occupied by industrial buildings;
- (b) to its north across Shek Pai Tau Road is the public housing estate, Tai Hing Estate;
- (c) to its east, south and west are industrial buildings; and
- (d) the Shek Pai LRT stop is situated about 200m to its northwest.

## **8. Planning Intention**

The planning intention of the “I” zone is primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

## **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/Tuen Mun (DLO/TM):

- (a) The Premises is located at portion of Workshop Q on the Ground floor of Delya Industrial Centre which is erected on Tuen Mun Town Lot No. 164 (‘the Lot’) and is held under New Grant No.2285. The Lot is subject to the following salient lease conditions:
  - (i) User: Industrial and/or godown purposes (excluding any offensive trade);
  - (ii) Type of Building: A factory or factories and/or a warehouse or warehouses, ancillary offices, and watchmen’s or caretakers’ quarters; and
  - (iii) Site coverage and plot ratio: Maximum site coverage of 80% and maximum plot ratio of 9.5 for building height over 30m but not exceeding 36m.
- (b) The proposed ‘Shop and Services (Real Estate Agency)’ use of the subject Premises does not comply with the lease conditions. If planning approval is given by the Board, the applicant will need to apply to Lands Department (LandsD) for a temporary waiver for the proposal. The proposal will only be considered upon receipt of formal application from the registered owner. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his comments on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, amongst others, charging of waiver fee and administrative fee.
- (c) Notwithstanding the above, in the event that any breach of the lease conditions or any change of use of the Premises without any prior approval from LandsD is detected, the Government reserves the right to take any enforcement action as may be considered appropriate.

### **Fire Safety**

#### 9.1.2 Comments of the D of FS:

He has no objection in principle to the application subject to the following:

- (d) fire service installations and equipment being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (e) the means of escape of the Premises is totally separated from the industrial portion of the subject building;
- (f) the building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m<sup>2</sup> in accordance with TPB PG-No. 25D. The applied use should be counted up to the aggregated commercial floor area;
- (g) regarding the 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; and
- (h) applicant's attention should be drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises'.

### **Traffic**

#### 9.1.3 Comments of the C for T:

He has no comment on the application from traffic engineering point of view provided that there are sufficient parking provisions in the subject industrial building to cater for its parking demand.

### **Environment**

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

He has no objection to the application from the environmental planning perspective as the subject Premises is located within an industrial building in an established "I" zone and in small scale, adverse environmental impact associated with the use is not anticipated.

### **Building Matters**

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

- (a) He has no objection in principle under the Buildings Ordinance (BO) to the proposed uses within the Premises provided that adequate fire protection/ separation between uses is installed.
- (b) Before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and
- (c) Detailed comments under the BO will be provided at building plan submission stage.

### **Others**

#### **9.1.6 Comments of the Director-General of Trade and Industry (DG of TI):**

- (a) She notes that the 2014 Area Assessments of Industrial Land in the Territory (“2014 Area Assessments”) released on 11.8.2015 by Planning Department have revealed that the total industrial stock in Hong Kong would not be able to meet the future demand for industrial uses. The 2014 Area Assessments had also recommended retaining Tuen Mun Industrial Areas 9 and 12, where the premises is located, as “Industrial” zone due to the low and decreasing vacancy rate of the industrial buildings and their high usage for industrial use (in particular Warehouse/Storage).
- (b) She has no comment on the application if a temporary approval of 5 years is imposed as it will not jeopardise the long-term use of the subject premises for industrial related uses.

### **District Officer’s Comments**

#### **9.1.7 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):**

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

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

- (a) Chief Highway Engineer/ New Territories West, Highways Department (CHE/ NTW, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (e) Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD)

## **10 Public Comments Received During Statutory Publication Period**

On 16.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application on environmental and fire safety concerns (**Appendix IV**).

## **11 Planning Considerations and Assessments**

- 11.1 The application is for 'Shop and Services (Real Estate Agency)' use on the ground floor of an existing industrial building zoned "I" on the OZP. While the planning intention of the "I" zone is to reserve land primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries, commercial uses in industrial buildings within the "I" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the Board's Guidelines No. 25D (TPB PG-No. 25D).
- 11.2 The applied use involves a floor area of about 28.7m<sup>2</sup> and is located on the ground floor of an existing building with direct frontage onto Tsing Yeung Circuit (**Plan A-2**). In view of the nature of operation and small scale of the applied use, it is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments.
- 11.3 As confirmed by D of FS, the subject building is protected by a sprinkler system and subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor in accordance with TPB PG-No. 25D. If the application is approved, the aggregated commercial floor area on the ground floor of the subject building will be 43.15m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>. In this regard, D of FS has no objection in principle to the application subject to the provision of fire service installations and equipment to his satisfaction.
- 11.4 The applied use generally complies with relevant considerations set out in TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments including FSD, BD and TD have no objection to the application.
- 11.5 The same Premises is the subject of four previously approved applications for shop and services and there are a number of similar approved applications for shop and services at other ground floor units of the subject building. These applications were approved mainly on grounds that it is in general compliance with the Board's guidelines for commercial use in industrial building, it has no adverse fire safety and traffic impacts, and the applied use is not incompatible with the adjoining units. The approval of the current application for shop and service use is in line with the Committee's previous decisions.
- 11.6 As advised by DG of TI, should the Committee approve the application, a temporary approval of five years is recommended in order not to jeopardise the long-term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.



11.7 One public comment raising objection to the application was received during the three-week statutory public inspection period as mentioned in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant.

## **12 Planning Department's Views**

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment summarised in paragraph 10 above, the Planning Department has no objection to the application on a temporary basis for a period of five 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 five years until 28.5.2026. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of fire service installations proposal for the application premises within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.11.2021; 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 attached 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 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 the rejection should be given to the applicant.

**14    Attachments**

<b>Appendix I</b>	Application form with attachments received on 31.3.2021
<b>Appendices Ia and Ib</b>	SI received on 7.4.2021 and 12.4.2021
<b>Appendix Ic</b>	FI received on 12.5.2021
<b>Appendix Id</b>	FI received on 17.5.2021
<b>Appendix II</b>	Details of previous applications
<b>Appendix III</b>	Details of similar applications
<b>Appendix IV</b>	Public comment
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Ground Floor Plan submitted by the Applicant
<b>Drawing A-2</b>	Layout Plan submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-2a</b>	Site Plan showing the previous applications and the land uses of the adjoining units
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to A-4b</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2021**