

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/406

- Applicant** : Mr. Yip Wai Chun represented by Metro Planning & Development Company Limited
- Site** : Lots 2030 (Part), 2031 (Part), 2032 RP (Part), 2033 RP (Part) in D.D.129, and adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,200m² (including GL of about 150m² or 12.5%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services (Shop for Selling Hardware Accessories) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (shop for selling hardware accessories) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “REC” on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/10. According to the Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use that requires planning permission from the Town Planning Board (the Board). The Site is currently partly erected with structures and used for open storage of scrap metal/recycling materials without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is subject to a previous application (No. A/YL-LFS/332) for proposed temporary warehouse for storage of scrap metal, which was rejected by the Rural and New Town Planning Committee (the Committee) on 1.2.2019 (**Plan A-1**).
- 1.3 According to the applicant, the proposal is for a shop selling hardware accessories, such as screws, screw nuts, screw drivers and handy tools. As shown on **Drawing A-1**, the proposed development comprises 3 structures (1 storey and not more than 4m in height) at the east of the Site with a total floor area of 258m² for shop and services, site office, as well as electricity meter room and toilet. 2 parking spaces for private cars and 1 loading/unloading space for light goods vehicle will be provided. The Site is accessible from Deep Bay Road via a local track (**Drawing A-**

2).

1.4 According to the applicant, the operation hours are from 9:00 a.m. to 6:00 p.m. daily (including public holidays). No open storage and workshop activities will be carried out at the Site. Only 5.5 tonnes light goods vehicle will be deployed to deliver the hardware accessories. Landscape planting will be provided along the northern periphery of the Site (**Drawing A-3**). Drainage facilities including surface channels and catchpits will be provided (**Drawing A-4**). Proposed layout plan, vehicular access plan, landscape plan and drainage plan are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form received on 26.7.2021 (Appendix I)
- (b) Further Information (FI) received on 2.9.2021 on revised drainage proposal (*exempted from the publication requirement*) (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The hardware accessories, such as screws, screw nuts and handy tools like screw drivers intended to be sold at the shop are small in nature.
- (b) 'Shop and service' use is a Column 2 use in the "REC" zone of the OZP.
- (c) The proposed development would benefit the residents in the vicinity, and would not jeopardise the long-term planning intention of the "REC" zone due to its temporary nature.
- (d) The proposed development is not incompatible with the surrounding environment including open storage yards and warehouses. Similar shop and services uses (such as Application No. A/YL-LFS/370) were granted with planning permission.
- (e) With (i) no open storage and workshop activities carried out; (ii) no operation in sensitive hours (i.e. from 6:00 p.m. to 9:00 a.m.); (iii) enclosed structure and static nature of the proposed use; and (iv) submitted drainage proposal, the proposed development will not generate significant traffic, environmental and drainage impacts.

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 posting site notice and sending notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Background

The Site forms part of a larger site which is subject to on-going planning enforcement action against unauthorised development (UD) involving storage use, workshop use and parking of vehicles (**Plan A-2**). Enforcement Notice was issued on 19.7.2018 requiring the discontinuance of the UD. Since the UD had not been discontinued upon expiry of the EN, prosecution actions have been undertaken. As recent site inspection revealed that the UD had still not yet been discontinued, further prosecution may be instigated.

5. Previous Application

5.1 The Site forms part of a previous application (No. A/YL-LFS/332) for proposed temporary warehouse for storage of scrap metal for a period of 3 years, which was rejected by the Committee on 1.2.2019 on grounds that the proposed warehouse was not in line with the planning intention, and not compatible with the surrounding environment; there was adverse comment from the Commissioner for Transport (C for T) in that the transporting of scrap metal would generate medium/heavy goods vehicle traffic through Deep Bay Road; and approval of the application would set an undesirable precedent. Details of the above previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

5.2 Compared with the previous application, the current application is submitted by a different applicant for different use at a smaller site.

6. Similar Applications

6.1 Within/straddling the same “REC” zone, there are 4 similar applications (No. A/YL-LFS/307, 330, 370 and 374) involving 3 sites for temporary shop and services for retail of family goods or radio controlled cars and accessories. All of them were approved by the Committee between 2018 and 2020 on considerations that they were not in conflict or would not jeopardise the long-term planning intention of the “REC” zone; there were no adverse comments from the concerned Government departments; and the technical concerns could be addressed by approval conditions.

6.2 Details of the above similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently erected with 2 structures and used for open storage of scrap metal/recycling materials without valid planning permission;
- (b) hard-paved and partly fenced-off; and
- (c) located to the east of Deep Bay Road, and is accessible via a track on Government Land and private lots branching off Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north across Deep Bay Road are container trailer parks, an open storage yard, storage uses, a chicken shed, a plant nursery and a residential dwelling;
- (b) to the immediate east and south is the remaining part of the open storage of scrap metal/recycling materials with workshop. To the further east is the private columbarium named Che Wan Seen Yuen;
- (c) to the further south are open storage yards, vacant land, unused land, shrubland, cultivated agricultural land, graves, and a residential dwelling; and
- (d) to the west across Deep Bay Road are a warehouse covered by valid planning permission, a container trailer park, and open storage yards.

8. Planning Intention

The “REC” zone is intended 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 summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs are 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 the GL included in the Site (about 150m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (c) There is no proposal for recreational development approved or under processing at the Site by his office.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) of the lots will need to immediately apply to his office for permitting the structures to be erected or to regularise any irregularities on site, if any. The applicant has to either exclude the GL from the Site or immediately apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use

is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) 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 application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

9.1.2 Comments of C for T:

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to nearby public roads/drains.
- (b) His office shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

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

- (a) He has no objection to the application. The proposed development does not involve the use of heavy vehicles nor dusty operation.
- (b) There is no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Landscaping

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

- (a) He has no objection to the application.
- (b) The Site (about 1,200m²), falls within an area zoned “REC” on the

draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/10. The Site is subject to one previous planning application (No. A/YL-LFS/332) for proposed temporary warehouse for storage of scrap metal for a period of 3 years which she had reservation from landscape planning perspective and the application was subsequently rejected by the Committee on 1.2.2019. The current application seeks planning permission for proposed temporary shop and services (shop for hardware accessories) at a smaller site for a period of 3 years.

- (c) According to site photos taken, the Site is partly hard paved and partly bare soil without any significant vegetation. According to the aerial photo of 2020, the Site is situated in an area of rural landscape character predominated by trees and vegetation cluster, open storage yards and temporary structures in the vicinity. The proposed use is considered not entirely incompatible with the surrounding area. Significant adverse landscape impact arising from the proposed development is not anticipated.

Drainage

9.1.6 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 Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

9.1.7 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. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the proposed use under planning

application.

- (b) There is no building plan submission in relation to development at the Site approved/under processing.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Others

9.1.9 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DEVB):

- (a) He has no objection in principle from the built heritage and archaeological conservation perspective.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

9.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any feedback from locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (c) Project Manager (West), CEDD (PM(W), CEDD);
- (d) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (e) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 3.8.2021, the application was published for public inspection. During the statutory public inspection period, a public comment from an individual (**Appendix IV**) was received objecting to the application on the ground that the proposed hardware shop was indeed metal storage in disguise, and the Committee was requested to inquire into what operation was actually being carried out on the Site.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (shop for selling hardware accessories) for a period of 3 years within the “REC” zone of the OZP (**Plan A-1**). The “REC” zone is intended 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. Although the proposed development is

not in line with the planning intention of the “REC” zone, there is no known development programme at the Site to implement the zoned use on the OZP. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “REC” zone.

- 11.2 The Site is located in an area predominated by open storage yards and warehouses. The proposed development is considered not incompatible with the surrounding area.
- 11.3 Concerned Government departments including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no objection to or adverse comment on the application on the traffic, environmental, landscape, drainage and fire safety aspects. The proposed development would unlikely create significant adverse traffic, environmental, landscape, drainage and fire safety impacts to the surrounding area. To minimise any potential environmental nuisances and address the technical requirements of the concerned Government departments, relevant approval conditions have been recommended in paragraph 12.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on-site would be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the surrounding area.
- 11.4 There are 4 similar approved applications (No. A/YL-LFS/307, 330, 370 and 374) for temporary shop and services use involving 3 sites within the same “REC” zone. Although the Committee rejected a previous application (No. A/YL-LFS/332) at the Site, it is for proposed temporary warehouse for storage of scrap metal which would generate medium/heavy goods vehicle traffic through Deep Bay Road, and C for T did not support the application. As for the current application, it is for a different use and C for T has no adverse comment on the traffic aspect. As such, approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There was 1 public comment received objecting to the application during the statutory public inspection period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 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 **24.9.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no open storage and workshop activities, as proposed by the applicant, are allowed at the Site at any time during the planning approval period;
- (d) the implementation of the accepted 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 **24.3.2022**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of fire service installations proposal 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 **24.3.2022**;
- (g) in relation to condition (f) above, the implementation of the fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **24.6.2022**;
- (h) if any of the above planning conditions (a), (b), (c) or (e) 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
- (i) if any of the above planning conditions (d), (f) or (g) 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 proposed development is not in line with the planning intention of the "Recreation" zone, which is intended primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the 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 the planning 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 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

Appendix I	Application Form received on 26.7.2021
Appendix Ia	Further Information received on 2.9.2021
Appendix II	Previous Application
Appendix III	Similar Applications within the same “REC” zone
Appendix IV	Public Comment Received During Statutory Publication Period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Access Plan
Drawing A-3	Landscape Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**