

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/410

- Applicant** : Ching Yeung (Fu Tso) Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lot 1965 in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,083m²
- 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 Warehouse for Storage of 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 warehouse for storage of 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 covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is not involved in any previous planning application, and is currently cleared of vegetation, being formed, largely vacant and fenced-off (**Plans A-2 to A-4**).
- 1.2 As shown on the layout plan at **Drawing A-1**, the proposal comprises 4 structures (3m to 9m in height and not more than 2 storeys) with a total floor area of about 528m² for warehouses, site office and toilet uses. A parking space for staff’s private car and a 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**).
- 1.3 According to the applicant, the operation hours are between 9 a.m. and 7 p.m. from Mondays to Saturdays and there is no operation on Sundays and public holidays. No mechanical processing work and storage of scrap metal will be carried out. Septic tank, drainage facilities and fire service installations will be provided. The layout

plan and vehicular access plan are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form received on 6.9.2021 (Appendix I)
- (b) Supplementary Information (SI) received on 7.9.2021 (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 and the SI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The surrounding area is predominated by temporary storage and port back-up uses, many of which are either ‘Existing Use’ tolerated under the Town Planning Ordinance (the Ordinance) or covered with temporary planning approvals. The proposed development is compatible with the surrounding land uses.
- (b) The Board has previously approved planning applications for the same use in the vicinity, and should consider the current application in the same manner.
- (c) The proposed development which is temporary in nature would not jeopardise the long-term planning intention of the “REC” zone.
- (d) The proposed development does not involve clearance of vegetation but utilise the current formed land, and would not bring adverse impact to the surrounding environment.
- (e) The proposed development would not cause adverse traffic, air quality and drainage impacts. It would also not cause adverse noise impact, for there is only a few residential dwellings nearby.
- (f) The Site will be reinstated upon the lapse of the planning approval.

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 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.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Application

The Site is not involved in any previous planning application.

6. Similar Applications

- 6.1 Within the same “REC” zone, there are 14 similar applications (No. A/YL-LFS/91, 99, 104, 114, 214, 223, 261, 295, 320, 321, 332, 361, 368 and 392) for temporary warehouse/godown with or without open storage, workshop and/or retail uses. 8 of them were approved while 6 of them were rejected by the Rural and New Town Planning Committee (the Committee). Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

Approved applications

- 6.2 Applications No. A/YL-LFS/223, 261, 295 and 361 covering the same site for temporary warehouse for storage of animal feed were approved with conditions by the Committee between 2011 and 2020 mainly on considerations that the applied use, which is an extension of a feed mill that is an ‘Existing Use’ tolerated under the Ordinance, would help the development of livestock industry, temporary approval would not jeopardise long-term planning intention, the applied use was not incompatible with the surrounding areas, concerned Government departments had no objection to the application and the technical concerns could be addressed by approval conditions.
- 6.3 Applications No. A/YL-LFS/320 and 368 covering the same site for temporary warehouse for storage of documents and construction materials respectively were approved with conditions by the Committee in 2018 and 2020 mainly on considerations that temporary approval would not jeopardise long-term planning intention, concerned Government departments had no objection to the application and the technical concerns could be addressed by approval conditions.
- 6.4 Applications No. A/YL-LFS/321 and 392 covering more or less the same site for temporary warehouse for plastic and retail of plastic pellet were approved with conditions by the Committee in 2018 and 2021 mainly on the considerations as stated in paragraph 6.3 above, and that the applied use was not incompatible with the surrounding area.

Rejected applications

- 6.5 Applications No. A/YL-LFS/91, 99, 104, 114, 214 and 332 involving 5 sites for temporary warehouse/godown for storage of various materials with/without open storage and workshop use were rejected by the Committee/Board on review between 2003 and 2019 mainly on grounds of not in line with the planning intention, failure in demonstrating no adverse traffic, environmental, landscape, drainage and/or ecological impact, and setting undesirable precedent.

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

- 7.1 The Site is:
- (a) cleared of vegetation, being formed, largely vacant and fenced-off; and
 - (b) located to the east of Deep Bay Road, and is accessible via a track on GL and private lots branching off Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and northeast are residential dwellings, a patch of shrubland and an open storage yard for construction machineries which is a suspected unauthorised development (UD). To the further north, northeast and northwest are open storage yards and warehouses which are suspected UD, a pigsty, shrubland, and pieces of cultivated agricultural land, unused land and vacant land;
- (b) to the immediate east across a local track are an animal boarding establishment, warehouses and workshop which are suspected UD. To the further east are a garden, residential developments named Hill Top Villa, Deep Bay Villa and Pine Lodge, and open storage yards which are suspected UD; and
- (c) to the immediate southwest is a private columbarium named Che Wan Seen Yuen. To the further southwest are open storage yards which are suspected UD, and patches of vacant land and cultivated agricultural land.

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 an Old Schedule Agricultural Lots (OSALs) 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) There is no proposal for recreational development approved or under processing at the Site by his office.
- (c) Should planning approval be given to the subject planning application, the lot owner of the lot will need to immediately apply to his office for permitting the structures to be erected or to regularise any irregularities on site, if any. 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 LandsD.

Traffic

9.1.2 Comments of Commissioner for Transport (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.
- (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) Adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The access road connecting the Site with Deep Bay Road is not and will not be maintained by his office. His office should not be responsible for maintaining 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 as the proposed development does not involve operation 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 IV**.

Landscaping

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

- (a) She has reservation on the application from landscape planning

perspective.

- (b) The Site is currently bare soil ground without any significant vegetation. Some construction wastes are observed at the northeastern portion of the Site. According to the aerial photo of 2021, the Site is located in an area of rural coastal plains landscape character predominated by trees and vegetation clusters disturbed by open storage yards and temporary structures in the vicinity, most of which are suspected UD's subject to enforcement action. The proposed use is considered not entirely incompatible with the existing environment and the landscape character.
- (c) Although no further significant impact on existing landscape resources arising from the proposed development is anticipated, there is concern that approval of the planning application may encourage other similar applications to the "REC" zone, the cumulative impact of which would result in further degradation of the landscape quality of the surrounding environment in the "REC" zone.

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 submit a drainage proposal, 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 IV**.

Building Matters

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

- (a) There is no building plan submission in relation to development at the

Site approved or under processing.

- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Others

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

- (a) It is noted from the development proposal that a septic tank for the proposed toilet and drainage works would be constructed and conducted respectively. There is no objection in principle to the planning application from the archaeological and built heritage conservation perspective, in view of the location and scope of the proposed development.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

- 9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

The applicant should be reminded of the detailed comments at **Appendix IV**.

District Officer's Comments

- 9.1.11 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) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Project Manager (West), CEDD (PM(W), CEDD);
- (e) Commissioner of Police (C of P); and
- (f) Director of Agriculture, Fisheries and Conservation (DAFC).

10. Public Comments Received During Statutory Publication Period

On 14.9.2021, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals (**Appendices III-1 and III-2**) were received objecting to the application on grounds that the proposed development would bring adverse traffic, environmental and fire safety impacts to villagers living nearby, the proposed development involving storage of metal would lead to soil contamination, and there is no previous and relevant similar approval.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of 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 proposal to implement the zoned use on the Site, and temporary planning permissions for warehouse use have been granted within the subject “REC” zone since 2011. Hence, the approval of the application on a temporary basis for a period of 3 years 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, warehouses and workshops. The proposed development is considered not incompatible with the surrounding area.
- 11.3 Concerned Government departments including C for T, DEP, CE/MN of DSD and D of FS have no objection to the proposed development. The proposed development would unlikely create significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas. Although CTP/UD&L of PlanD raises concern that approval of the subject application may encourage other similar application(s) and lead to further degradation of the landscape quality of the surrounding environment, she opines that no further significant impact on the existing landscape resources arising from the proposed development is anticipated. Moreover, both DEP and DAFC have no adverse comment on the application from environmental and nature conservation perspectives. 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 No previous planning approval has been granted for the Site. There are 8 similar approved applications (No. A/YL-LFS/223, 261, 295, 320, 321, 361, 368 and 392) for temporary warehouse use involving 3 sites within the same “REC” zone. Although the Committee rejected 6 similar applications (No. A/YL-LFS/91, 99, 104, 114, 214 and 332), all of them were subject to adverse comments from relevant Government departments particularly on environmental and traffic aspects. The subject application is different in that there is no objection/adverse comment from concerned Government departments as stated in paragraph 11.3 above. As such, approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There are 2 public comments received objecting to the application on grounds 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 comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary warehouse for storage of hardware accessories could be tolerated for a period of 3 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 3 years until **29.10.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 7:00 p.m. to 9:00 a.m. on Mondays to Saturdays, 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) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (d) 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 **29.4.2022**;
- (e) in relation to (d) above, the implementation of the drainage proposal 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 **29.7.2022**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a 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 **29.4.2022**;
- (h) in relation to condition (g) 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 **29.7.2022**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 IV**.

- 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 "REC" 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 6.9.2021
Appendix Ia	Supplementary Information received on 7.9.2021
Appendix II	Similar Applications within the same "REC" zone
Appendices III-1 and III-2	Public Comments Received During Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular access plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**