

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/420

- Applicant** : Wong Shui Chuen represented by Metro Planning & Development Company Limited
- Site** : Lots 1673 (Part), 1675 (Part), 1676 (Part), 1677 (Part) and 1678 (Part) in D.D.129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,458.5m² (including about 325.8m² of GL)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 77.7% of the Site)
(ii) Government Land (about 22.3% of the Site)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10 (at the time of submission)

Approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11 (currently in force)
- Zoning** : “Recreation” (“REC”)
(no change to the zoning under the current OZP)
- 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 for proposed temporary shop and services (shop for selling hardware accessories) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “REC” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11 currently in force. 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 hard-paved and forms part of a larger site for open storage of scrap metal/recycling materials without valid planning permission (**Plans A-2, A-4a to A-4c**). The Site is not involved in any previous application.
- 1.2 The Site is accessible via a local track branching off Deep Bay Road (**Drawing A-2**). According to the applicant, the proposed development 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 4 structures (1 storey and not exceeding 4m in height) at the north and west of the Site with a total floor area of about 496m² for shop and services, site office, as well as electricity meter room and toilet. The structures at the west are set back from the slope feature along the western periphery of the Site. 2 parking spaces for private cars and 1 loading/unloading space for light goods vehicle will be provided. 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. Drainage facilities including surface channels and catchpits will be provided (**Drawing A-3**). Proposed layout plan, vehicular access plan and drainage plan are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 31.12.2021 (Appendix I)
- (b) Further Information (FI) received on 24.3.2022* (Appendix Ia)
- (c) FI received on 25.4.2022 enclosing a revised Geotechnical Planning Review Report (GPRR)* (Appendix Ib)

[FI enclosing various versions of GPRR received on 14.3.2022[^], 11.4.2022* and 14.4.2022* are superseded and not attached]

* *accepted and exempted from publication*

[^] *accepted but not exempted from publication*

1.4 On 18.2.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow time for preparation of FI to address departmental comments. With the FI received on 14.3.2022, the application is scheduled for consideration by the Committee at this meeting.

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 services' 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 Applications No. A/YL-LFS/370 and 406) 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.

- (f) The proposed development would replace the existing incompatible open storage use, which would be a planning gain.

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 taking reasonable steps to give notification to the owner including sending notice to the Ping Shan Rural Committee via registered mail and posting notice at the Site. 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 is currently not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion that there is unauthorised development (UD) under the Town Planning Ordinance on the Site, appropriate planning enforcement action would be instigated.

5. Previous Application

The Site is not involved in any previous planning application.

6. Similar Applications

6.1 Within/straddling the same “REC” zone, there are 5 similar applications (No. A/YL-LFS/307, 330, 370, 374 and 406) involving 4 sites for temporary shop and services for retail of family goods, radio controlled cars and accessories, or hardware accessories. All of them were approved by the Committee between 2018 and 2021 on considerations that they were not in conflict with or would not jeopardise the long-term planning intention of the “REC” zone; they were not incompatible with the surrounding area; 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 II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) overlooked by a man-made slope (i.e. Feature No. 2SW-C/C78) at its north, entirely concrete paved, and partly fenced-off;
- (b) currently being part of a larger site for open storage of scrap metal and recycling materials without planning permission; and
- (c) 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 north is an open storage yard of vehicles and vehicle repair workshop which are suspected UDs;
- (b) to the east is an open storage yard of recycling materials which is a suspected UD;
- (c) to the south across a local track are an open storage yard of construction materials and a container vehicle park which are suspected UDs; as well as a warehouse (under valid planning permission No. A/YL-LFS/368). To the further south are scrubland intermixed with graves falling within the “Green Belt” zone; and
- (d) to the west and northwest are open storage yard of recycling materials, workshop and warehouse which are suspected UDs. To the further northwest across a local track are open storage yards and warehouses which are suspected UDs.

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

Departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comments Received During Statutory Publication Periods

On 7.1.2022 and 25.3.2022, the application and its FI were respectively published for public inspection. During the statutory public inspection periods, a total of 4 public

comments from two individuals (**Appendices V-1 and V-2**) were received objecting to/expressing concerns over the application on grounds that the proposed development may generate adverse environmental and fire safety impacts, and that the history of the Site should be looked into, including the alleged illegal activities on GL.

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 use is not in line with the planning intention of the “REC” zone, there is no known development proposal 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 proposed use is considered not entirely incompatible with the surrounding uses, which are mainly open storage yards and warehouses.
- 11.3 Concerned government departments including C for T, DEP, H(GEO) of CEDD, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no objection to or adverse comment on the application. The proposed use would unlikely create significant adverse traffic, environmental, slope safety, 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 is no previous planning application covering the Site. There are 5 similar approved applications for temporary shop and services use involving 4 sites within the same “REC” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There were 4 public comments received objecting to/raising concerns over the application during the statutory public inspection periods 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 and having taken into account the public comments mentioned in paragraph 10, 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 **6.5.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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;
- (b) no open storage and workshop activities, as proposed by the applicant, are allowed at the Site at any time during the planning approval period;
- (c) the submission of a revised 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 **6.11.2022**;
- (d) in relation to (c) above, the implementation of the revised 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 **6.2.2023**;
- (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 a proposal for water supplies for firefighting and fire service installations 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 **6.11.2022**;
- (g) in relation to condition (f) above, the provision of water supplies for firefighting and fire service installations 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 **6.2.2023**;
- (h) if any of the above planning conditions (a), (b) 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 (c), (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 IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use 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 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 rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 31.12.2021
Appendix Ia	Further Information received on 24.3.2022
Appendix Ib	Further Information received on 25.4.2022
Appendix II	Similar Applications within the same "REC" zone
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments Received During Statutory Publication Periods
Drawing A-1	Layout Plan
Drawing A-2	Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
MAY 2022**