

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/422

- Applicant** : Ocean Union International Logistics Co. Limited
- Site** : Lots 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281 and 1282 in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 4,411m²
- 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** : “Green Belt” (“GB”)
- Application** : Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of electronic goods for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” 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. Besides, filling of land within the “GB” zone requires planning permission from the Board. The Site is not involved in any previous planning application. It is currently hard-paved and occupied by the applied use without valid planning permission (**Plans A-4a to A-4c**).
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises 4 structures of 1 storey (3m to 7m) high, with a total floor area of about 1,787m². The structures are for storage of electronic goods, toilet, ancillary office and guard room uses. 2 parking spaces for medium goods vehicle (MGV), 1 for heavy goods vehicle (HGV) and 1 for private car would be provided. Also, 2 loading/unloading spaces for HGV and MGV each would be provided.

- 1.3 According to the applicant, the operation hours would be between 9 a.m. and 6 p.m. from Mondays to Fridays, and from 10 a.m. and 6 p.m. on Saturdays. There would be no operation on Sundays and public holidays. Septic tank connecting to the toilet is provided.
- 1.4 Moreover, according to the applicant, the entire Site (about 4,411m²) has been hard-paved with concrete or asphalt for an average of 1.5m in thickness. A plan of the land-filled area is at **Drawing A-3**. The layout plan, vehicular access plan and the plan of the land-filled area are at **Drawings A-1 to A-3** respectively.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 7.1.2022 (Appendix I)
 - (b) Supplementary Information (SI) received on 18.1.2022 (Appendix Ia)
 - (c) SI received on 19.1.2022 (Appendix Ib)
 - (d) Further Information (FI) received on 10.2.2022 (Appendix Ic)
(exempted from the publication requirement)

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 electronic goods handled by the company are not suitable for loading/unloading at industrial buildings.
- (b) The company cannot afford high land rent of typical warehouses due to high labour cost. Moreover, with the land clearance at the Hung Shui Kiu area, the company cannot find any suitable warehouses thereat.
- (c) Majority of the 36 employees of the company are from the grassroot, and often the sole breadwinner of their families. The adverse impacts of laying them off under the pandemic are unimaginable.
- (d) The operation of the temporary warehouse would not generate any pollution and impacts on the surrounding environment.

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 from the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines for “Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are summarised

as follows and detailed at **Appendix II**.

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone;
- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (d) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

4.2 According to Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows and detailed at **Appendix III**.

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

The Site was previously the subject of a planning enforcement action (No. E/YL-LFS/515)

against unauthorised development (UD) involving storage use (including deposit of containers) and workshop use (**Plan A-2**). Enforcement Notice (EN) was issued on 6.11.2020 requiring the discontinuance of the UD by 6.2.2021. The UD was subsequently found to have been discontinued, and Compliance Notice was issued on 8.7.2021 for compliance with the EN. The storage use (including deposit of containers) currently at the Site would be subject to planning enforcement action.

6. Previous Application

The Site is not involved in any previous planning application.

7. Similar Applications

- 7.1 Within the same “GB” zone, there are 9 similar applications (No. A/YL-LFS/90, 130, 200, 252, 259, 262, 280, 346 and 411) involving 6 sites for temporary warehouse for storage of various materials with or without open storage use. All of them were rejected by the Rural and New Town Planning Committee (the Committee)/the Board on review or dismissed by the Town Planning Appeal Board (the Appeal Board) on appeal. Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-LFS/90 and 130 involving the same site for temporary warehouse were dismissed by the Appeal Board on appeal in 2003 and 2007 respectively on grounds of insufficient justifications for departure from the planning intention, incompatibility with the surrounding rural character, failure to demonstrate no adverse environmental and/or drainage impacts, and/or setting undesirable precedent.
- 7.3 Applications No. A/YL-LFS/259, 280, 346 and 411 involving 3 sites for temporary warehouse with or without open storage use were rejected by the Committee between 2014 and 2021 mainly on grounds of not in line with the planning intention; not in line with the TPB PG-No. 10 due to incompatibility with the surrounding environment, failure to demonstrate no adverse traffic, landscape and/or environmental impacts, and/or setting undesirable precedent.
- 7.4 Applications No. A/YL-LFS/200, 252 and 262 involving 2 sites for temporary warehouse with or without open storage use within the WBA were rejected by the Committee or the Board on review between 2010 and 2014 mainly on similar grounds as stated in paragraph 7.3 above, and/or not in line with the then TPB PG-12B for Application for Developments within the Deep Bay Area under Section 16 of the Town Planning Ordinance.

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

8.1 The Site is:

- (a) fenced off, entirely hard-paved with concrete and asphalt, and erected with temporary structures. It is occupied by the applied use without valid planning permission; and

- (b) located to the south of Deep Bay Road, and is accessible via a local track on GL and private lots branching off Deep Bay Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) to the immediate north are parking of tractors and woodland. The woodland at the northeast of the Site falls within the Tsim Bei Tsui Egrettry Site of Special Scientific Interest (SSSI);
 - (b) to the further east are the mangroves falling within the Inner Deep Bay SSSI;
 - (c) to the south and southeast are workshops and warehouses for storage of recycling materials. To the further south is a woodland; and
 - (d) to the southwest across a local track is shrubland intermixed with graves.

9. Planning Intention

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

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

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lots (OSALs), which 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) Should planning approval be given to the subject planning application, the lot owner 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. 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

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

- (a) The traffic of the Site would be through a local track leading to Deep Bay Road which is a single-track road. Based on the submission of the application, the applied use would generate traffic involving medium and heavy goods vehicles.
- (b) The applicant is requested to justify that the nearby public road network has adequate capacity to accommodate the traffic induced by the applied use at the Site. In particular, the traffic impact on the local road should be well assessed as a result of the applied use, since it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available.

10.1.3 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

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

- (a) Although the applied use involves operation of heavy vehicles, there is no sensitive use nearby. As such, he has no objection to the application.
- (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 VI**.

Nature Conservation

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

The Site has been paved. He has no comment on the application from nature conservation point of view.

Landscaping

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

- (a) The Site is in rural coastal plains predominated by woodland, scrubland, ponds, hard paved and disturbed by temporary structures and open storages. The Site is covered by self-seeded vegetation along the site boundary. Having compared the site condition through the aerial photos from 2013 to 2021 (**Plans A-3a to A-3d**), vegetation clearance on the tree and vegetation clutter along the site boundary and extensive site formation works with filling of concrete and asphalt were found within the Site.
- (b) As “GB” zone is intended to promote the conservation of the natural environment and no similar application for warehouses uses previously approved in the same “GB” zone, the applied development is considered incompatible with the landscape character of the surrounding landscape setting from landscape planning perspective.

Drainage

10.1.7 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

10.1.8 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 and water supplies for firefighting being provided to the satisfaction.
- (b) Based on the proposed access route, it is noted that the nearest available street fire hydrant is more than 500m away from the Site. In this regard, street fire hydrant system with adequate flow, pressure and size of water tank shall be provided in the Site.
- (c) In consideration of the design/nature of the proposal, water supply for firefighting and FSIs are anticipated to be required.

Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed water supply for firefighting and FSIs to his department for approval. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix VI**.

Building Matters

10.1.9 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 use under application.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

District Officer's Comments

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

He has consulted the locals regarding the application. A local comment from the Village Representatives of Mong Tseng Wai and Mong Tseng Tsuen and villagers was received objecting to the application on grounds that the applied use is not suitable at the protected "GB" zone; the traffic generated by the applied use would induce pedestrian-vehicular conflict at the access road which is substandard; approval of the application would open the flood gate for similar applications; and the applied use would adversely affect the fung shui of the burial ground of the villagers in the vicinity of the Site.

10.2 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); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 21.1.2022, the application was published for public inspection. During the statutory public inspection period, 4 public comments from the Conservancy Association, Kadoorie Farm & Botanic Garden Corporation and 2 individuals (**Appendices V-1 to V-4**) were received objecting to/raising concerns over the application on grounds that the applied development is very close to the Tsim Bei Tsui Egrettry and Inner Deep Bay SSSIs, and the light and noise pollution so generated may cause adverse ecological and environmental impacts; the applied development involves vegetation clearance and site formation and is a 'destroy first, build later' case; and the applied development is not in line with the

planning intention of the “GB” zone.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary warehouse for storage of electronic goods for a period of 3 years and filling of land at the Site zoned “GB” which is primarily intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Moreover, filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The applied use and land filling, involving the entire Site with concrete/asphalt of 1.5m in thickness, are not in line with the planning intention of the “GB” zone. There is no strong planning justification given in the submission for a departure of such planning intention.
- 12.2 The Site is located in an area predominated by woodland. To its immediate northeast is the Tsim Bei Tsui Egrettry SSSI while to its further east is the Inner Deep Bay SSSI. Although there are workshops and warehouses to the south and southeast of the Site, they are suspected UDs subject to enforcement action by the Planning Authority. The applied development which had involved vegetation clearance and extensive hard-paving is considered not compatible with the surrounding areas.
- 12.3 According to the TPB PG-No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The design and layout of any proposed development within “GB” zone should be compatible with the surrounding area. In these regards, with reference to the aerial photos taken between 2013 and 2015 (**Plans A-3b to A-3d**), trees and vegetation clutter along the periphery of the Site was cleared, and extensive site formation was undertaken for, inter alia, the applied use. CTP/UD&L of PlanD considered that the applied development is incompatible with the landscape character of the surrounding landscape setting. As such, the applied use and the associated filling of land are considered not in line with TPB PG-No. 10.
- 12.4 C for T concerns whether the nearby public road network (including the single-track local track leading to Deep Bay Road) has adequate capacity to accommodate the traffic induced by the applied use, particularly when medium and heavy goods vehicle traffic would be generated, and it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available. However, the applicant has not provided any information to address the above traffic concerns. Hence, there is insufficient information to assess whether the applied use would not have adverse traffic impact on the surrounding area.
- 12.5 Other concerned departments including DAFC, DEP, CE/MN of DSD, H(GEO) of CEDD and D of FS have no objection to or no comment on the applied development from nature conservation, environmental, drainage, geotechnical and fire safety perspectives.
- 12.6 There is no previous planning application covering the Site. Also, no approval for

similar applications for warehouse use has been granted by the Committee or the Board within the same “GB” zone. Approval of the application would set an undesirable precedent and encourage proliferation of warehouses within the same “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment of the area, thereby frustrating the planning intention of the “GB” zone. Rejecting the subject application is in line with the previous decisions of the Committee.

- 12.7 Regarding the local views conveyed by DO/YL of HAD and 4 public comments received objecting to the application as stated in paragraphs 10.1.10 and 11 respectively, the planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the local views and public comments mentioned in paragraphs 10.1.10 and 11 respectively, the Planning Department does not support the application for the following reasons:

- (a) the applied development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the applied development is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the applied development is considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the applied development would not have significant adverse landscape impacts on the surrounding areas;
- (c) the applicant fails to demonstrate that the applied development would not generate adverse traffic impact on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for similar applications for warehouse use within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

- 13.2 Alternatively, 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 **4.3.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no open storage or workshop activities should be carried out on the Site at any time during the planning approval period;

- (b) 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 **4.9.2022**;
- (c) in relation to (b) 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 **4.12.2022**;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 **4.9.2022**;
- (f) in relation to condition (e) 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 **4.12.2022**;
- (g) if any of the above planning conditions (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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; and
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 7.1.2022
Appendix Ia	Supplementary Information received on 18.1.2022
Appendix Ib	Supplementary Information received on 19.1.2022
Appendix Ic	Further Information received on 10.2.2022
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendix IV	Similar Applications within the same “GB” zone
Appendices V-1 to V-4	Public Comments Received During Statutory Publication Period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Plan of Land-Filled Area
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plans A-3a to A-3d	Aerial Photos taken in 2021, 2015, 2014 and 2013
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**