

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/452

- Applicant** : Hoi Fu Man Fung Gondola Company Limited represented by Mr. Wong Sun Wo William
- Site** : Lots 1263, 1264, 1283, 1284, 1286 and 1287 in D.D. 129 and adjoining Government Land (GL), Tsim Bei Tsui, Yuen Long, New Territories
- Site Area** : About 7,250m² (including GL of about 270m² or 3.7%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Warehouse for Engineering Machineries and Construction Equipment (Suspended Working Platforms and Metal Scaffolds) for a Period of 3 Years, and Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for engineering machineries and construction equipment (suspended working platforms and metal scaffolds) for a period of three years, and filling and excavation of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Besides, filling and excavation of land within the “GB” zone also require planning permission from the Board. The Site is currently concrete-paved, partly covered by an open shed and temporary structures, and largely vacant (**Plans A-4a to A-4d**).
- 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**, two structures of one to two storeys (about 6m to 8m) in height and with a total floor area of about 4,557m² are proposed for warehouse and ancillary office uses. The ingress/egress would be located at the northeast of the Site. Two parking spaces each for private cars and light goods vehicles would be provided. According to the applicant, the operation hours would be between 8 a.m. and 6 p.m. from Mondays to Saturdays. There would be no operation on Sundays and public holidays. Drainage facilities (viz. peripheral drain and catchpit) would be provided (**Drawing A-4**).

- 1.3 Moreover, the applicant would like to regularise the land filling works and apply for the proposed land excavation works on the Site. As shown on the land filling and excavation plan at **Drawing A-3**, the applied land filling works covers an area of about 1,800m² (or 24.8%) which has been filled with concrete of about 0.15m in depth¹. In addition, the applicant proposes to excavate a strip of land mainly along the periphery of the Site (with an area of 300m² (or 4.1%) and a depth of about 0.15m to 0.3m) for the proposed drainage works mentioned in paragraph 1.2 above.
- 1.4 The proposed layout plan, vehicular access plan, land filling and excavation plan, as well as drainage plan are at **Drawings A-1 to A-4** respectively.
- 1.5 The Site is involved in a previous application (No. A/YL-LFS/432) for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of three years, and filling and excavation of land, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 26.8.2022 (details at paragraph 6 below).
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 19.12.2022 (Appendix I)
 - (b) Further Information (FI) received on 9.1.2023* (Appendix Ia)

** accepted and exempted from publication requirements*

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 FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the current site used by the applicant for storage of suspended working platforms and metal scaffolds at Tong Yan San Tsuen, Yuen Long, which takes up an area of over 200,000 square feet (or about 18,580m²), has to be vacated by February 2023 due to government land resumption. Should planning permission be granted by the Board, the machineries and equipment will be moved to the Site for temporary storage. The current site will then be returned to the government in one month upon granting of the planning permission;
- (b) as many areas in the Tuen Mun, Yuen Long and North Districts are under government land resumption, the applicant has been searching for relocation site for a long period of time but to no avail;
- (c) the Site is located far away from residential area and would not adversely affect the landscape of the surroundings; and
- (d) the applicant intends to utilise the existing structures for the proposed use. No adverse impact on the surrounding environment would be caused.

¹ Although the Site is currently entirely concrete-paved, the applicant claims that majority of the Site was used for pig farm before and had all along been concrete-paved. Hence, he intends to regularise only the additional concrete paving to the east of the Site as shown on **Drawing A-3**.

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 notifying the current land owner by registered mail. 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 was previously the subject of planning enforcement action (Case No. E/YL-LFS/552) against unauthorized development (UD) involving storage use (including deposit of containers) and workshop use (**Plan A-2**). Enforcement Notices were issued to the concerned parties on 25.1.2022 and 16.6.2022 requiring the discontinuance of the UD by 25.2.2022 and 16.7.2022 respectively. As the UD was subsequently found to have been discontinued, Compliance Notices were issued on 18.10.2022 for compliance with the ENs. The Site is currently not subject to any active planning enforcement action.

5. Town Planning Board Guidelines

- 5.1 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 detailed at **Appendix II**.
- 5.2 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 detailed at **Appendix III**.

6. Previous Application

- 6.1 The Site is involved in a previous application (No. A/YL-LFS/432) for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of three years and filling and excavation of land, which was rejected by the Committee on 26.8.2022 mainly on grounds of being not in line with the planning intention of the “GB” zone and TPB PG-No. 10; not compatible with the surrounding areas, failure to demonstrate no significant adverse environmental and landscape impacts; and setting undesirable precedent. Details of the above previous application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.
- 6.2 The current application is submitted by a different applicant for a different use. However, it involves the same land filling and land excavation proposal and a similar layout as the previous application.

7. Similar Applications

- 7.1 Within the same “GB” zone, there were three similar applications for temporary warehouse in the past five years. All of them were rejected by the Committee or the Board on review. 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/346, 411 and 422 for temporary warehouse for storage of various materials with or without open storage use and filling of land were rejected by the Committee/the Board on review between 2019 and 2022 mainly on grounds of being not in line with the planning intention of the “GB” zone; being not in line with TPB PG-No. 10 and/or the then TPB PG-No. 13E for ‘Application for Open Storage and Port Back-up Uses’; being not compatible with the surrounding areas; failure to demonstrate no significant adverse environmental, traffic and/or landscape impacts; and setting undesirable precedent.

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

8.1 The Site:

- (a) is entirely concrete-paved, largely fenced off, partly covered by an open shed and temporary structures which are mostly vacant;
- (b) is located to the south of Deep Bay Road, and is accessible from Deep Bay Road via a local track (about 850m in length); and
- (c) falls within the WBA designated under TPB PG-No. 12C, and partly within the Mong Tseng Site of Archaeological Interest.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to planning enforcement action:

- (a) to the northwest are a warehouse and a vacant structure;
- (b) to the northeast and east is a woodland intermixed with a pond and a ruin. Part of the woodland falls within the Tsim Bei Tsui Egrettry Site of Special Scientific Interest (SSSI). To the further east at about 90m away are the mangroves and ponds falling within the Inner Deep Bay SSSI;
- (c) to the south is agricultural land, part of which is cultivated while part is laid fallow; and
- (d) to the west is cultivated agricultural land.

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 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices V and VI** respectively.
- 10.2 The following government departments have adverse comments or concerns on the application:

Landscaping

- 10.2.1 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 situated in area of rural coastal plains predominated by temporary structures, village houses, farmland, ponds and woodland. The Site is hard paved, largely covered by the large temporary structures with wild grass observed.
 - (c) By comparing the aerial photos taken between 2019 and 2022 (**Plans A-3a to A-3c**), vegetation clearance (including tree felling) and concrete paving were observed within the Site. No information is provided in applicant's submission on mitigation of the adverse landscape impact arising from the proposed development.
 - (d) The "GB" zone is primarily intended to promote conservation of the natural environment, including the Inner Deep Bay SSSI, the Tsim Bei Tsui Egrettry SSSI and existing ponds located in close proximity to the Site. Moreover, there is no similar application for warehouse use previously approved in the same "GB" zone. The proposed development is considered incompatible with the surrounding landscape setting from landscape planning perspective.

Land Administration

- 10.2.2 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) He objects to the planning application since there is illegal occupation of GL at the Site where regularization would not be considered according to the prevailing lands policy. He also has grave concerns given that there are unauthorised building works and/or uses on Lot 1263, 1264, 1283, 1284 and 1286 in D.D.129 which are already subject

to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD and cease the existing occupation of GL at the Site.

- (b) The structures erected on the Site since around 1994 are not subject to any approval by his office.

District Officer's Comments

10.2.3 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 villagers of Mong Tseng Wai (**Appendix VII**) was received objecting to the application mainly on grounds that change in land use is not appropriate at the Site zoned "GB"; the traffic generated by the proposed use would induce pedestrian-vehicular conflict at Deep Bay Road and the local access road which are substandard; the GL portion of the Site is used by villagers as access to graves and cultivated land and should not be included; the proposed use would adversely affect the fung shui of the burial ground of the villagers in the vicinity of the Site; and approval of the application would open the flood gate for similar applications.

11. Public Comments Received During Statutory Publication Period

On 6.1.2023, the application was published for public inspection. During the statutory public inspection period, three public comments from Kadoorie Farm & Botanic Garden Corporation and two individuals (**Appendices VIII-1 to VIII-3**) were received objecting to the application mainly on grounds of being not in line with the planning intention of the "GB" zone; proximity of the Site to the ecologically sensitive Deep Bay coast and the SSSIs; causing adverse traffic, environmental and fire safety impacts to the surroundings; and setting of undesirable precedent.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary warehouse for engineering machineries and construction equipment (suspended working platforms and metal scaffolds) for a period of three years, and associated filling and excavation of land at the Site zoned "GB". There is a general presumption against development within "GB" zone. Moreover, filling and excavation of land within the "GB" zone require planning permission from the Board as they may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The proposed use and associated filling and excavation of land are not in line with the planning intention of the "GB" zone. There is no strong planning justification given in the submission to warrant a departure from such planning intention, even on a temporary basis.

12.2 The Site falls within the WBA designated under TPB PG-No. 12C, and is located in an area predominated by woodland. To its immediate east is the Tsim Bei Tsui Egretty SSSI while to its further east are the mangroves and ponds of the Inner Deep

Bay SSSI (**Plan 1**). Although there is a warehouse to the northwest of the Site, it is a suspected UD subject to planning enforcement action. While the Director of Agriculture Fisheries and Conservation has no comment on the application from nature conservation perspective, the proposed use and associated filling and excavation of land which had involved vegetation clearance and hard-paving are 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 design and layout of any proposed development within “GB” zone should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The issue on compatibility has been discussed in paragraph 12.2 above. With regard to the impact on existing natural vegetation and landscape, although the applicant claims that only the existing structures are utilised, District Lands Officer of Lands Department (DLO/YL, LandsD) advised that the structures erected on the Site since around 1994² were not subject to any approval by his office. Moreover, aerial photos between 2019 and 2022 (**Plans A-3a to A-3c**) show that the previous structures on the Site had been rebuilt, whilst vegetation was cleared and site formation through concrete-paving was undertaken at the eastern portion of the Site. In this regard, CTP/UD&L of PlanD has reservation on the application from landscape planning perspective. She also considers that the proposed use and associated filling and excavation of land is not compatible with the surrounding landscape setting. In view of the above, the proposed use and the associated filling and excavation of land are considered not in line with TPB PG-No. 10.
- 12.4 DLO/YL, LandsD objects to the application from land administration point of view as there are illegal occupation of GL at the Site where regularisation would not be considered according to prevailing lands policy, as well as unauthorised building works and/or uses at part of the Site which is already subject to lease enforcement action.
- 12.5 Other concerned departments including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Head of the Geotechnical Engineering Office of Civil Engineering and Development Department and Director of Fire Services have no objection to or no comment on the proposed use and associated filling and excavation of land from traffic, environment, drainage, geotechnical and fire safety perspectives.
- 12.6 The Site is subject to a previous application (No. A/YL-LFS/432) for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of three years and associated filling and excavation of land. It was rejected by the Committee on 26.8.2022 mainly on grounds of, inter alia, being not in line with the planning intention and TPB PG-No. 10; not compatible with the surrounding areas, and failure to demonstrate no significant adverse landscape impact. Although its use was different from the current application, it involved the same land filling and land excavation proposal, as well as a similar layout as the current application. Hence, the considerations of the

² Aerial photo taken in 1993 (**Plan A-3d**) (i.e. after the first gazettal of the Lau Fau Shan and Tsim Bei Tsui Interim Development Permission Area Plan in 1990) revealed that the Site was vacant and covered with vegetation.

previous applications in respects of the above are relevant to the current application. There has been no major change in the planning circumstances since the rejection of the previous application. Moreover, no approval for similar applications for warehouse use has been granted by the Committee/the Board within the same “GB” zone. Approval of the current application would set an undesirable precedent and encourage proliferation of similar developments 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.

- 12.7 Regarding the local views conveyed by DO/YL of HAD and the three public comments received objecting to the application as stated in paragraphs 10.2.3 and 11 respectively, the planning considerations and assessments in paragraphs 12.1 to 12.5 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 10.2.3 and 11 respectively, the Planning Department does not support the application for the following reasons:

- (a) the proposed use and associated filling and excavation of land are 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, even on a temporary basis; and
- (b) the proposed use and associated filling and excavation of land are 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 proposed use and associated filling and excavation of land are considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use and associated filling and excavation of land would not have significant adverse landscape impact on the surrounding areas.

- 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 **17.2.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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;

- (b) no workshop activities are allowed to be carried out on the Site at any time during the planning approval period;
- (c) the submission of a revised drainage proposal including flood mitigation measures 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 **17.8.2023**;
- (d) in relation to (c) above, the implementation of the revised drainage proposal including flood mitigation measures 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 **17.11.2023**;
- (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 **17.8.2023**;
- (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 **17.11.2023**;
- (h) if any of the above planning condition (a), (b) or (e) 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;
- (i) if any of the above planning condition (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; and
- (j) 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 to grant 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 19.12.2022
Appendix Ia	FI received on 9.1.2023
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	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Local Views conveyed by District Officer/Yuen Long
Appendices VIII-1 to VIII-3	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Land Filling and Excavation Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3d	Aerial Photos taken in 2022, 2020, 2019 and 1993
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2023**