

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/457

- Applicant** : Mr. Kong Chun Ying represented by Metro Planning & Development Company Limited
- Site** : Lots 1679 (Part), 1684 (Part), 1685 (Part) and 1690 (Part) in D.D. 129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 5,600m² (including GL of about 910m² or 16.3%)
- 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** : “Recreation” (“REC”)
- Application** : Temporary Warehouse for Storage of Water Pumps and Motors for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of water pumps and motors for a period of three years at the application site (the Site) (**Plan A-1**) zoned “REC” on the OZP. 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). The Site is currently used for the applied use without any valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 As shown on the vehicular access plan at **Drawing A-2**, the Site is accessible from Deep Bay Road via a local track, with the ingress/egress located at the northwest of the Site (**Drawing A-1**). As indicated in the submission, the Site is for storage of water pumps and cartoned motors. As shown on the layout plan at **Drawing A-1**, five structures of one to two storeys (about 3.5m to 8m) in height and with a total floor area of 3,725m² are used for warehouses (with site offices therein), toilets and electricity meter room purposes. A loading/unloading space for light goods vehicles is provided.
- 1.3 According to the applicant, the operation hours are between 9 a.m. and 6 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. Drainage facilities (i.e. surface U-channels and catchpits), fire service installations (FSIs) and landscape plantings are provided within the Site. The layout plan,

vehicular access plan, as-built drainage plan, FSIs plan and landscape and tree preservation plan submitted by the applicant are at **Drawings A-1 to A-5** respectively.

1.4 The Site is the subject of three previous applications, including two (No. A/YL-LFS/320 and 368) for the same applied use for storage of various items approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 6.7.2018 and 4.9.2020 respectively. Nevertheless, the two planning permissions were revoked on 6.10.2020 and 4.2.2023 respectively due to non-compliance with time-limited approval conditions regarding the submission and/or implementation of FSIs proposal, and/or implementation of drainage and tree preservation and landscape proposals (details at paragraph 5 below). Compare to the last previous application No. A/YL-LFS/368, the current application is submitted by a different applicant for the same use for storage of different types of items at the same site, with the same layout and development parameters.

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

- (a) Application Form with attachments received on 9.2.2023 **(Appendix I)**
- (b) Supplementary Information (SI) received on 15.2.2023 **(Appendix Ia)**
- (c) Further Information (FI) received on 23.3.2023* **(Appendix Ib)**

** 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, the SI and the FI at **Appendices I to Ib**. They can be summarised as follows:

- (a) the planning intention of the “REC” zone will not be realised in the near future;
- (b) the applied use is compatible with the surrounding area comprising mainly open storage yards, warehouses and rural workshops in terms of land use and development bulk;
- (c) the Site is the subject of two previous applications (No. A/YL-LFS/320 and 368) for the same applied use. The time-limited approval conditions of the last previous application No. A/YL-LFS/368 regarding the submission and implementation of drainage and landscape proposals had been complied with. All the existing landscape plantings on-site would be maintained. The existing warehouses on-site are covered by Short Term Waiver issued by the Lands Department;
- (d) the Site had been used as a sauce factory and food processing workshop before 1989 which were regarded as ‘Existing Use’. Upon the subsequent closure of the sauce factory and food processing workshop due to their relocation to the Mainland, the applicant turned the Site into a warehouse for storage of construction materials so as to maintain his living. Sympathetic consideration should therefore be given to the current application;

- (e) all the storage items which are clean and tidy would be stored within the warehouses. The storage items could be delivered by light goods vehicles. The applied use would not generate significant adverse traffic and environmental impacts; and
- (f) despite the availability of FSIs on-site, water supply by the Water Services Department (WSD) is yet to be available for the Site. The applicant lodged application for fire service water supply in September 2021, and has been resolving various technical issues with WSD.

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. For the GL portion, the requirements as set out in TPB PG-No. 31A are not applicable.

4. **Background**

The storage use on the Site would be subject to planning enforcement action.

5. **Previous Applications**

- 5.1 The Site is involved in three previous applications (No. A/YL-LFS/99, 320 and 368) for warehouse with or without open storage use. Two of them were approved and one was rejected by the Committee/the Board on review. Details of these previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

Approved applications

- 5.2 Application No. A/YL-LFS/320 for temporary warehouse for storage of documents for a period of three years was approved with conditions by the Committee on 6.7.2018 mainly on considerations that temporary approval would not jeopardise the long-term planning intention; the applied use was not incompatible with the surrounding land uses; concerned government departments generally had no objection to the application and the technical concerns could be addressed by approval conditions. Nevertheless, the planning permission was subsequently revoked on 6.10.2020 due to non-compliance with time-limited approval conditions regarding the submission and implementation of the FSIs proposal, as well as implementation of the revised drainage and tree preservation and landscape proposals.
- 5.3 Application No. A/YL-LFS/368 for temporary warehouse for storage of construction materials for a period of three years was approved with conditions by the Committee on 4.9.2020 mainly on similar considerations as mentioned in paragraph 5.2 above. Nevertheless, the planning permission was subsequently revoked on 4.2.2023 due to

non-compliance with a time-limited approval condition regarding the implementation of FSIs proposal.

Rejected application

- 5.4 Application No. A/YL-LFS/99 for temporary warehouse and open storage of construction materials for a period of three years was rejected by the Board on review on 4.7.2003 mainly on grounds of not in line with the planning intention and the then Town Planning Board Guidelines No. 13C¹ in that the site was not covered by any previous planning permission, and there were adverse departmental comments on traffic aspect; and setting undesirable precedent.

6. Similar Applications

- 6.1 Within the same “REC” zone, there were 11 similar applications for temporary warehouse/storage use in the past five years. 10 of them were approved while one was rejected by 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 Ten applications (No. A/YL-LFS/321, 361, 392, 410, 438, 441, 442, 445, 449 and 455) covering nine sites were approved with conditions by the Committee between 2018 and 2023 mainly on considerations that temporary approval would not jeopardise the long-term planning intention; the applied use was not incompatible with the surrounding land uses; concerned government departments generally had no objection to the application and the technical concerns could be addressed by approval conditions.

Rejected application

- 6.3 Application No. A/YL-LFS/332 was rejected by the Committee in 2019 mainly on grounds that there were adverse comments from government department on traffic aspect. In particular, the proposed warehouse for storage of scrap metal would generate medium/heavy goods vehicle trips and the applicant failed to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding area.

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

7.1 The Site is:

- (a) hard-paved, largely covered by structures and being used for the applied use without valid planning permission; and
- (b) located to the east of Deep Bay Road, and is accessible from Deep Bay Road via a local track.

¹ The then Town Planning Board Guidelines (TPB PG) No. 13C was related to application for open storage and port back-up uses. The latest version is TPB PG-No. 13F promulgated in March 2020.

- 7.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorized developments subject to planning enforcement action:
- (a) to the north across a local track are open storages of vehicles with or without vehicle repair workshops, storage yards, a recycling workshop, parking of container vehicles, a car drifting ground and vacant land;
 - (b) to the east and southeast are an open storage yard with parking of vehicles, a storage yard and parking of container vehicles;
 - (c) to the south is shrubland intermixed with graves falling within the Permitted Burial Ground No. YL/59; and
 - (d) to the west is a warehouse.

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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department has adverse comments on the application:

Land Administration

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

- (a) he has grave concern on the application given that there are unauthorised building works and/or uses on Lots 1684, 1685 and 1690 in D.D.129 which are already subject to lease enforcement actions. The lot owner(s) should remedy the lease breaches as demanded by LandsD; and
- (b) the applicant should be reminded of the advisory comments at **Appendix IV**.

10. Public Comment Received During Statutory Publication Period

On 17.2.2023, the application was published for public inspection. During the statutory

public inspection period, one public comment from an individual (**Appendix V**) was received objecting to the application mainly on grounds of repeated non-compliance with approval conditions under the previous planning permissions and occupation of GL for hazardous uses.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of water pumps and motors for a period of three years within the “REC” zone of the OZP (**Plan A-1**). Although the applied use is not in line with the planning intention of the “REC” zone, there is no known development proposal at the Site. Approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “REC” zone.
- 11.2 The Site is located in an area predominated by open storage yards, warehouses/ storage yards, workshops, parking of vehicles and a car drifting ground. The applied use is considered not incompatible with the surrounding land uses.
- 11.3 Concerned government departments including Commissioner for Transport (C for T), Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD), Head of Geotechnical Engineering Office of Civil Engineering and Development Department and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. The applied use would unlikely cause significant adverse traffic, environmental, drainage, slope safety and fire safety impacts on the surroundings. To minimise any possible environmental nuisance, the applicant will be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions in paragraph 12.2 below.
- 11.4 DLO/YL, LandsD expressed concerns on the application from land administration perspective as there are unauthorised building works and/or use at Lots 1684, 1685 and 1690 in D.D.129 at the Site. To address the concerns of DLO/YL, LandsD, the applicant will be advised to remedy the lease breaches, and follow the relevant land administration procedures as required by LandsD.
- 11.5 The Site is involved in three previous applications, with the last two (No. A/YL-LFS/320 and 368) for the same applied use approved with conditions by the Committee in 2018 and 2020 respectively. Subsequently, the two planning permissions were revoked in 2020 and 2023 respectively due to non-compliance with time-limited approval conditions regarding the submission and/or implementation of FSIs proposal, and/or implementation of drainage and tree preservation and landscape proposals. For the current application, although it is submitted by a different applicant and for storage of different types of items, the site layout and development parameters are essentially the same as the last previous application. As for the revocation of the last previous application No. A/YL-LFS/368, which is due to the non-compliance with a time-limited approval condition regarding implementation of FSIs proposal, the applicant explains that the non-compliance was attributed to the unavailability of water supply for fire service at the Site. Nevertheless, the applicant has been resolving various technical issues with WSD since his application for fire service water supply was lodged to WSD in

September 2021. In support of the current application, the applicant has submitted an FSIs proposal, which is considered acceptable by D of FS. As such, sympathetic consideration may be given to the current application. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application unless under very special circumstances.

11.6 The Committee has approved 10 similar applications covering nine sites within the same “REC” zone in the past five years. Although the Committee/the Board rejected a previous application for temporary warehouse and open storage of construction materials (No. A/YL-LFS/99) in 2003 on review and a similar application (No. A/YL-LFS/332) in 2019, the circumstances of the rejected applications are different in that the former involving open storage use was not in line with the then TPB PG-No. 13C (i.e. the site fell within Category 3 areas, it was not covered by any previous planning permission, and there were adverse departmental comments on traffic aspect), whilst the latter would generate medium/heavy goods vehicle trips, on which C for T had adverse comment. For the current application for temporary warehouse use, the said Town Planning Board Guidelines are not applicable. Also, concerned departments have no adverse comment on the application from traffic, environment, drainage, slope safety and fire safety perspectives. As such, approval of the current application is in line with the previous decisions of the Committee.

11.7 Regarding the public comment received objecting to the application on grounds as summarised in paragraph 10 above, the planning considerations and assessments in paragraphs 11.1 to 11.6 above are relevant.

12. Planning Department’s Views

12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of water pumps and motors could be tolerated for a period of three 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 three years until **31.3.2026**. 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3 months** from the date of planning approval to the satisfaction of

the Director of Drainage Services or of the Town Planning Board by **31.6.2023**;

- (d) the implementation of the accepted fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **31.12.2023**;
- (e) if any of the above planning conditions (a) or (b) 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; and
- (f) if any of the above planning conditions (c) or (d) is not complied with by the 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 applied use is not in line with the planning intention of the "REC" zone, which is 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 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

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| Appendix I | Application Form with attachments received on 9.2.2023 |
| Appendix Ia | SI received on 15.2.2023 |
| Appendix Ib | FI received on 23.3.2023 |
| Appendix II | Previous and Similar Applications |
| Appendix III | Government Departments' General Comments |
| Appendix IV | Recommended Advisory Clauses |
| Appendix V | Public Comment Received During Statutory Publication Period |
| Drawing A-1 | Layout Plan |
| Drawing A-2 | Vehicular Access Plan |

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| Drawing A-3 | As-built Drainage Plan |
| Drawing A-4 | FSIs Plan |
| Drawing A-5 | Landscape and Tree Preservation Plan |
| Plan A-1 | Location Plan with Previous and Similar Applications |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |

**PLANNING DEPARTMENT
MARCH 2023**