

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/461

- Applicant** : Ying Shing (Hopewell) Engineering Company Limited
- Site** : Lots 53, 55 RP, 63, 64 and 71 in D.D.129, Tsim Bei Tsui, Yuen Long, New Territories
- Site Area** : About 4,650m²
- 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** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Temporary Warehouse for Storage of Timber for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of timber for a period of three years and filling of land at the application site (the Site) (**Plan A-1**) zoned “CPA” 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). Besides, filling of land within the “CPA” zone also requires planning permission from the Board. The Site is currently largely filled with construction waste without any valid planning permission, and largely vacant (**Plans A-2, and A-4a to A-4c**).
- 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 south of the Site (**Drawing A-1**). As indicated in the submission, the proposed temporary warehouse would be used for storage of timber planks and props. As shown on the layout plan at **Drawing A-1**, two single-storey structures (about 7m in height) and with a total floor area of about 2,000m² are proposed for warehouse use. Two parking spaces for private cars, and two loading/unloading spaces for medium goods vehicles would be provided.
- 1.3 According to the applicant, the operation hours would be between 9 a.m. and 5 p.m. from Mondays to Fridays. There would be no operation on Saturdays, Sundays and public holidays.

1.4 Moreover, the applicant proposed to fill the entire Site (about 4,650m²) with soil of about 1.2m in depth, as well as concrete of about 0.1m in depth atop the soil filling (**Drawing A-3**).

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

- (a) Application Form with attachments received on 28.2.2023 (**Appendix I**)
- (b) Supplementary Information (SI) received on 7.3.2023 (**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 current site used by the applicant for storage of timber at Lot 331 in D.D. 95, Kwu Tung has to be vacated by Q4 2023 due to land resumption by Government for the remaining phase of Kwu Tung North/Fanling North New Development Area (KTN/FLN NDA) project. The applicant's company has been operating for some 20 years and the impact of closure would be significant;
- (b) the proposed warehouse would not be leased out but for self-use only;
- (c) all the storage items would be stored inside the proposed warehouse structures. No open storage would be carried out; and
- (d) the proposed development would not cause any adverse traffic impact.

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 was previously the subject of a planning enforcement action (Case No. E/YL-LFS/555) against unauthorized development (UD) involving excavation of land (for forming of ponds) and filling of land. Enforcement Notice and Reinstatement Notice (RN) were issued in April and May 2022 respectively. As the Site was subsequently reinstated (**Plan A-4d**), Compliance Notice for the RN was issued in December 2022. The filling of land currently undertaken on the Site would be subject to planning enforcement action.

5. Previous Application

The Site is not involved in any previous planning application.

6. Similar Application

While there is no similar application within the same “CPA” zone of the OZP considered within the past five years, application No. A/YL-LFS/460 for proposed temporary warehouse for storage of steelwork for a period of three years and filling of land (**Plan A-1**) to the south of the Site submitted by the same applicant of the current application within the same “CPA” zone will be considered by the Rural and New Town Planning Committee (the Committee) of the Board at the same meeting.

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

7.1 The Site is:

- (a) largely fenced off, filled with construction waste, and largely vacant; and
- (b) accessible from Deep Bay Road to its south via a local track.

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

- (a) to the north are cultivated agricultural land, shrubland, ponds and mangroves along the Deep Bay coastline. To the further north off the coast of Deep Bay is the Wetland of International Importance under the Ramsar Convention (the Ramsar Site);
- (b) to the east and southeast are shrubland, a warehouse, residential dwellings, an open storage yard and unused land;
- (c) to the south are shrubland intermixed with vacant land. To the further south across Deep Bay Road are an open storage yard, a warehouse with workshop and shrubland; and
- (d) to the west are residential dwellings in Sha Kiu Tsuen, a storage yard, workshop, a plant nursery, ruins, vacant land, unused land, grassland, cultivated agricultural land and a pond.

8. Planning Intention

The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments 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 II and III** respectively.

9.2 The following government departments have adverse comments on the application:

Environment

9.2.1 Comments of the Director of Environmental Protection:

- (a) He does not support the application as the applied development involves heavy vehicles and there are sensitive receivers, i.e. residential dwellings located in the vicinity of the Site (the closest residential dwelling being about 25m away) (**Plan A-2**). Environmental nuisance is expected.
- (b) There is no substantiated environmental complaint pertaining to the Site in the past 3 years.
- (c) The applicant should be reminded of the advisory comments at **Appendix III**.

Landscaping

9.2.2 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 village houses, ponds and mangrove.
- (c) Site formation had been undertaken as revealed from the site photos taken in March 2023 (**Plans A-4a to A-4c**). Significant impact on landscape resources had taken place. No information is provided in the applicant's submission on mitigation of the adverse landscape impact arising from the proposed development.
- (d) The "CPA" zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There has not been any similar application for warehouse use with associated filling of land approved in the same "CPA" zone. The proposed development is considered incompatible with the surrounding landscape resources (i.e. scattered tree groups and ponds) and landscape character (i.e. rural coastal plains landscape, the

“CPA” zone, fish ponds).

Traffic

9.2.3 Comments of the Commissioner for Transport (C for T):

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

10. Public Comments Received During Statutory Publication Period

On 10.3.2023, the application was published for public inspection. During the statutory public inspection period, five public comments from Kadoorie Farm & Botanic Garden Corporation, the Conservancy Association and three individuals (**Appendices IV-1 to IV-5**) were received objecting to the application mainly on the following grounds:

- (a) the proposed development is not in line with the planning intention of the “CPA” zone;
- (b) there are ponds within the “CPA” zone, and the Deep Bay shoreline is largely covered with mangroves and mudflats. Approval of the application may affect the future designation of Coastal Protection Park and the concept of ‘Coastal Landscape Ecology Corridor’ mentioned in the Northern Metropolis Development Strategy;
- (c) the proposed development would impede the access of residents of Sha Kiu Tsuen;
- (d) the proposed development would have adverse ecological, environment, landscape, traffic and drainage impacts. No information is provided in the submission to address the above concerns;
- (e) together with the adjoining site under application No. A/YL-LFS/460, the proposed developments involve extensive site formation in the “CPA” zone. The “CPA” zone provides protection barrier to extreme weather conditions and must be kept intact; and
- (f) the Site had been subject to site formation and vegetation clearance, and has been a black spot of UDs. The application is a suspected ‘destroy first, build later’ case. Approval of the application would set an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of timber for a period of three years, and associated filling of land with concrete and soil at the Site within the “CPA” zone, which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. While the Director of Agriculture, Fisheries and Conservation has no strong view on the application from nature conservation perspective, the proposed use and associated filling of land involving concrete-paving on the entire Site are not in line with the planning intention of the “CPA” zone. There is no strong planning justification given in the submission to warrant a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is located near the coast of Deep Bay (about 85m away), and off the coastline is the Ramsar Site. The surrounding areas of the Site are predominated by shrubland, ponds, cultivated agricultural land and residential dwellings. Although there are warehouses and open storage yards in the vicinity of the Site, they are suspected UD's subject to planning enforcement action. The proposed use and associated filling of land involving concrete-paving on the entire Site are considered not compatible with the surrounding areas.
- 11.3 With reference to the site photos taken in December 2022 (**Plans A-4d**) and March 2023 (**Plans A-4a to A-4c**), vegetation was blanket cleared and construction waste was dumped on the Site. In this regard, CTP/UD&L of PlanD has reservation on the application from landscape planning perspective as significant impact on the landscape resources had taken place. She also considers that the proposed use and associated filling of land is incompatible with the surrounding landscape resources and landscape character. Nevertheless, no information is provided in the submission to address the above concerns. Hence, the applicant fails to demonstrate that the proposed use and associated filling of land would not have adverse landscape impact on the surrounding areas.
- 11.4 DEP does not support the application as the proposed use involves operation of heavy vehicles and there are sensitive receivers (i.e. residential dwellings) in the vicinity of the Site (the closest residential dwelling being about 25m away) (**Plan A-2**). Moreover, C for T raises concerns on whether the nearby public road network has adequate capacity to accommodate the medium goods vehicle traffic induced by the proposed use, particularly Deep Bay Road is a single-track road and it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available. Nevertheless, the applicant has not provided any information to address the above concerns regarding environmental nuisance and traffic aspect. Hence, the applicant fails to demonstrate that the proposed use would not have adverse environmental and traffic impacts on the surrounding areas.
- 11.5 Other concerned departments including the Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the proposed development from drainage and fire safety

perspectives.

- 11.6 There is no previous planning application covering the Site. Also, no approval for similar application for warehouse use has been granted by the Committee within the same “CPA” zone. Approval of the application would set an undesirable precedent and encourage proliferation of similar uses within the same “CPA” 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 “CPA” zone.
- 11.7 Regarding the 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 11.6 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 comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed use and associated filling of land is not in line with the planning intention of the “CPA” zone, which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
 - (b) the applicant fails to demonstrate that the proposed use and associated filling of land would not have significant adverse landscape, environmental and traffic impacts on the surrounding areas; and
 - (c) approval of the application would set an undesirable precedent for similar applications within the “CPA” zone. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment of the area.
- 12.2 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 **21.4.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 5:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (c) no vehicle exceeding 24 tonnes, including 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) no open storage or workshop activity is allowed on the Site at any time during the planning approval period;
- (e) 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 **21.10.2023**;
- (f) in relation to (e) 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 **21.1.2024**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **21.10.2023**;
- (i) in relation to condition (h) above, the implementation of the 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 **21.1.2024**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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; and
- (l) 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 III**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 28.2.2023
Appendix Ia	SI received on 7.3.2023
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendices IV-1 to IV-5	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos Taken in March 2023
Plan A-4d	Site Photos Taken on 30.12.2022

**PLANNING DEPARTMENT
APRIL 2023**