

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/505

- Applicant** : Mr. Lam Ping Ki
- Site** : Lots 2093 (Part), 2094 (Part), 2095 (Part), 2096 RP (Part), 2097, 2102 S.A (Part), 2215 S.A RP (Part), 2216 (Part), 2217, 2218 RP (Part), 2219 RP (Part), 2231 RP (Part), 2233 (Part), 2234, 2235, 2236 (Part), 2237 (Part) in D.D.129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 4,400m² (including GL of about 90m² or 2.0%)
- 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 Open Storage of Construction Materials and Machineries with Ancillary Workshop, and Vehicle/Cargo Compartments Assembly and Repair Workshop for a Period of 3 years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials and machineries with ancillary workshop, and vehicle/cargo compartments assembly and repair workshop for a period of three years at the application site (the Site) (**Plan A-1a**) 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 comprises two portions which are currently hard-paved, fenced off, divided into four compartments, erected with structures and used for the applied uses without valid planning permission (**Plans A-2, A-4a to A-4c**).
- 1.2 The Site is accessible from Deep Bay Road via access tracks, with the ingresses/ egresses located at the east and southeast of the Site (**Drawing A-1**). As indicated in the submission, the open storage yards would be used for storage of construction materials such as marble as well as machineries, whilst the workshops are ancillary to the open storage yards as well as for vehicle assembly and repair. As shown on the layout plan at **Drawing A-1**, an area of about 1,850m² (or 42%) is designated for open storage. 17 structures of one to two storey (about 3.5m to 6m in height) with a total floor area of about 1,684m² are used for storage, site office, workshop, rest room and electricity meter room uses. Six parking spaces for private cars and ten

loading/unloading spaces for light goods vehicles are provided. Drainage facilities (i.e. surface U-channels) and landscape plantings (i.e. preserving 44 existing trees) are also provided (**Drawings A-2 and A-3**).

- 1.3 According to the applicant, the operation hours are between 8 a.m. and 8 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays.
- 1.4 The Site is involved in 23 previous applications for temporary open storage with or without workshop covering different parts of the Site. All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1998 and 2021 (details at paragraph 6 below). Compared with the last previous application No. A/YL-LFS/399, the current application is submitted by the same applicant for the same applied uses with the same development parameters and layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 10.1.2024 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 17.1.2024 (**Appendix Ia**)
 - (c) Further Information (FI) received on 27.2.2024 (**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 at **Appendix I**. They can be summarised as follows:

- (a) as compared with the last previous application No. A/YL-LFS/399, there is no change under the current application; and
- (b) the applicant will comply with the approval conditions imposed by the Board.

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. 31B) 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 under TPB PG-No. 31B are not applicable.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13G for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within the Category 2 areas under the TPB PG-No. 13G. The relevant extract of the Guidelines are attached at **Appendix II**.

5. **Background**

The storage and workshop uses on-site would be subject to planning enforcement action.

6. **Previous Applications**

The Site is involved in 23 previous applications (No. A/YL-LFS/28, 34, 45, 52, 67, 68, 82, 96, 109, 110, 111, 112, 161, 162, 163, 164, 206, 207, 208, 209, 257, 308 and 399) for temporary open storage with or without workshop uses for a period of 12 months to three years which were approved with conditions by the Committee or the Board on review between 1998 and 2021 mainly on considerations that temporary use would not frustrate the long term planning intention; approval could alleviate acute shortage of open storage and port back-up land in the area; the applied uses were not incompatible with the surrounding land uses; concerned government departments in general had no objection to/adverse comments on the application; no adverse traffic impact to Deep Bay Road was expected; and/or technical concerns could be addressed through approval conditions. Shorter approval period of two years (instead of the three years sought) was granted for applications No. A/YL-LFS/161, 162, 163, 164, 206, 207, 208, 209, 257 and 399 as the Site and its adjoining area were reclassified from Category 3 to 4 in 2005 under TPB PG-No. 13D. As for the last previous application No. A/YL-LFS/399, all time-limited approval conditions had been complied with and the permission lapsed on 26.6.2023. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

7. **Similar Applications**

7.1 Within the same “REC” zones, there were ten similar applications for temporary open storage and workshop uses in the past five years. Six of them were approved while four were rejected by the Committee. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

Approved applications

7.2 Applications No. A/YL-LFS/336 and 451 for temporary open storage use with or without ancillary workshop were approved with conditions by the Committee in 2019 and 2023 respectively mainly on considerations that the applied use was in line with the relevant TPB PG-No. 13 in that the sites were subject to previous permissions, and there had been no major change in planning circumstances since the granting of the previous permissions; and concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions.

7.3 Applications No. A/YL-LFS/479, 493 and 504 for temporary open storage use were approved with conditions by the Committee on 11.8.2023, 24.11.2023 and 16.2.2024 respectively, i.e. after the sites and their adjoining areas were reclassified from Category 3 to Category 2 areas under TPB PG-No. 13G, mainly on considerations that the applied use was in line with TPB PG-No. 13G in that concerned government departments generally had no objection to the application and the technical concerns could be addressed by approval conditions.

- 7.4 Application No. A/YL-LFS/398 for temporary vehicle repair workshop straddling the “Commercial/Residential” and “REC” zones was approved with conditions by the Committee on 11.6.2021 mainly on considerations that temporary approval would not jeopardise the long-term planning intentions; the applied use was considered not incompatible with the surrounding area; there was no adverse comment from concerned government departments and the technical concerns could be addressed by approval conditions.

Rejected applications

- 7.5 Applications No. A/YL-LFS/326, 329, 351 and 400 were rejected by the Committee between 2018 and 2021, i.e. when the sites and its adjoining areas were classified as Category 3 areas under TPB PG-No. 13E/F, mainly on grounds that the applied use was not in line with the planning intention; the sites were not subject to previous permissions for open storage use; and there were adverse departmental comments on environmental, traffic, landscape and/or drainage aspects.

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

8.1 The Site:

- (a) comprises two portions, and is hard-paved, fenced off, divided into four compartments, erected with structures and used for the applied uses without valid planning permission; and
- (b) accessible from Deep Bay Road to its southeast via access tracks.

- 8.2 The surrounding areas are predominated by open storage/storage yards, warehouses and vehicle parks/parking of vehicles. Other uses such as residential dwellings, offices, eating place and plant nursery are also found in the vicinity of the Site. Some of the surrounding uses are covered by valid planning permissions, whilst some are suspected unauthorized developments subject to planning enforcement action.

9. 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.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraphs 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 in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

10.2 The following government department does not support the application:

Environment

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

- (a) He does not support the application as the applied uses involves dusty operation (i.e. open storage of marble) and there are sensitive receivers, i.e. residential dwellings, the nearest of which is located at about 23m to the east of the Site (**Plan A-2**). Environmental nuisance is expected;
- (b) There was no substantiated environmental complaint pertaining to the Site in the past three years.
- (c) The applicant should note his advisory comments at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 19.1.2024, the application was published for public inspection. During the statutory public inspection period, no comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction materials and machineries with ancillary workshop, and vehicle/cargo compartments assembly and repair workshop for a period of three years at the Site zoned “REC” on the OZP (**Plan A-1a**). Although the applied uses are not in line with the planning intention of the “REC” zone, there is no known development proposal to implement the zoned use 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.
- 12.2 The Site is located in an area predominated by open storage yards, warehouses/ storage yards and parking of vehicles, some of which are covered by valid planning permissions. Although there are residential dwellings in the vicinity, the applied use is considered generally not incompatible with the surrounding land uses.
- 12.3 According to TPB PG-No. 13G, the Site falls within Category 2 areas. The application is generally in line with TPB PG-No. 13G in that there are generally no adverse comments from concerned government departments including Commissioner for Transport, Chief Town Planner/Urban Design and Landscape of Planning Department, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS), except DEP. The technical requirements of CE/MN of DSD and D of FS could also be addressed by imposing approval conditions recommended in paragraph 13.2 below.
- 12.4 DEP does not support the application as there are sensitive receivers in the vicinity of the Site (nearest residential dwelling is about 23m to the east of the Site) and the applied uses may cause dust nuisance. Nevertheless, the Site has been used for the applied uses and there was no substantiated environmental complaint pertaining to the Site in the past three years. To address DEP’s concern and minimise any

potential environmental nuisance on the surrounding areas, the applicant will be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'.

- 12.5 The Committee/the Board has approved 23 previous applications for temporary open storage with or without workshop use at the Site. The Committee has also approved six similar applications within/straddling the same "REC" zone in the past five years. Although the Committee had rejected four similar applications (No. A/YL-LFS/326, 329, 351 and 400) between 2018 and 2021, these applications were rejected when these sites fell within Category 3 areas under the then TPB PG-No. 13E/F, and there were adverse departmental comments. For the current application, it is identical to the scheme approved by the Committee under the last previous application in 2021. Moreover, the Site and its adjoining area has been reclassified as Category 2 areas under the TPB PG-No.13G promulgated on 14.4.2023. Approval of the current application is not in conflict with the previous decisions of the Committee.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary open storage of construction materials and machineries with ancillary workshop, and vehicle/cargo compartments assembly and repair workshop could be tolerated for a period of three years.
- 13.2 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 **1.3.2027**. 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 **1.6.2024**;
- (d) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6 weeks** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **12.4.2024**;
- (e) 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 **1.9.2024**;
- (f) in relation to (e) 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 **1.12.2024**;

- (g) if any of the above planning condition (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
- (h) if any of the above planning condition (c), (d), (e) or (f) 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 V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied uses are 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; and
- (b) the applicant fails to demonstrate that the applied uses would not generate adverse environmental impact on the surrounding areas.

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 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 10.1.2024
Appendix Ia	SI received on 17.1.2024
Appendix Ib	FI received on 27.2.2024
Appendix II	Extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses

Appendix VI	'Good Practice for Open Storage Sites' by the Fire Services Department
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Landscape Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Site Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2024**