

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-NSW/312**

- Applicant** : Wing Shing Caisson and Foundation Limited represented by Top Bright Consultants Limited
- Site** : Lots 3664 (Part), 3665 RP (Part), 3666 RP (Part), 3669 S.A RP (Part), 3669 S.B RP (Part), 3670 RP (Part), 3671 RP (Part), 3672 RP (Part) and 3673 RP (Part) in D.D. 104, Nam Sang Wai, Yuen Long
- Site Area** : About 6,402 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) (55%)  
*[restricted to a maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park]*  
  
“Village Type Development” (“V”) (45%)  
*[restricted to a maximum building height of 3 storeys (8.23m)]*
- Application** : Temporary Open Storage of Construction Materials and Machinery with ancillary Site Office for a Period of 1 Year

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials and machinery with ancillary site office for a period of 1 year at the application site (the Site) which falls within an area partly zoned “OU(CDWRA)” and partly zoned “V” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with filling of pond without valid planning permission.
- 1.2 According to the submitted layout plan (**Drawing A-1**), a 10m-wide ingress/egress is located at the eastern side of the Site, which is accessible from Kam Pok Road East (**Plan A-2**). Ten structures (1 to 2 storeys and not more than 6.2m in

height) with a total floor area of about 506 m<sup>2</sup> are provided at the Site for ancillary site office, staff rest room, toilets and storage. Two loading/unloading bays for heavy goods vehicles are provided at the southern fringe of the Site. The operation hours of the applied use are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays.

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

- |     |  |                      |
|-----|--|----------------------|
| (a) | Application Form received on 23.3.2023           | <b>(Appendix I)</b>  |
| (b) | Supplementary Planning Statement                 | <b>(Appendix Ia)</b> |
| (c) | Further Information (FI) received on 18.7.2023 # | <b>(Appendix Ib)</b> |
| (d) | FI received on 8.11.2023 #                       | <b>(Appendix Ic)</b> |
- # exempted from publication requirement*

1.4 On 5.5.2023 and 29.8.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months each.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ia**. They are summarised as follows:

- (a) The temporary development is applied for a period of 12 months mainly to allow enough time for the relocation of existing open storage use to a suitable site. The applicant received Enforcement Notice (EN) issued by the Planning Department and efforts have been made to comply with the notice. The applicant encountered difficulties in relocation as there is shortage of suitable site for open storage uses. It is expected that the relocation requires 12 months to complete.
- (b) The Site is currently used for storage of large-scale construction materials and machinery with well-established facilities which is important to serve the construction and infrastructure projects for the Northern Metropolis. The demand for open storage yards for construction materials and machineries is incredibly high. The location of the Site is in proximity to the Lok Ma Chau Boundary Control Point with good accessibility to the strategic road network, facilitating cross-border and local transportation of heavy machinery and materials.
- (c) The surrounding areas are mainly used for open storage and port back-up uses. It is considered not incompatible with the surrounding area.
- (d) The land owners of the Site have no planned or committed development programme for residential development within the "V" zone. As the applied use is temporary in nature and without permanent structures, it would not jeopardize the planning intention of the "V" and "OU(CDWRA)" zones. The applicant commits to cease operation when any comprehensive development commences.
- (e) The applied use would not contravene the Town Planning Board Guidelines for "Application for Developments within Deep Bay Area" (TPB PG-No. 12C). According to the guidelines, open storage of container back-up uses located close

to the existing cross-boundary control point in Lok Ma Chau and without involving pond filling might be sympathetically considered by the Board in view of the genuine need to facilitate cross-boundary movements of goods in the area. The current application deserves a favourable consideration.

- (f) The proposed development would not contravene the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) (currently No. 13G) in that the proposal would not have any adverse drainage, traffic, visual or environmental impacts and the Site is located near the existing cross-boundary control point in Lok Ma Chau.
- (g) The proposed development complies with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD) and no adverse environmental impact is anticipated.
- (h) The land owners are willing to lend their land for operation of the applied use and the proposed development is welcomed by the local population.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” of the Site 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 posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

- 4.1 According to the TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The TPB PG-No. 13G promulgated by the Board on 14.4.2023 is relevant to this application. The Site falls within Category 4 areas under the TPB PG-No. 13G. The relevant extract of the Guidelines is attached at **Appendix III**.

### **5. Background**

The Site is currently subject to an on-going planning enforcement action (No. E/YL-NSW/283) (**Plan A-2**) against an unauthorised development (UD) involving storage use. EN was issued on 13.1.2023 requiring discontinuation of the UD. As the EN had not been complied with, prosecution action had been taken. According to the latest site inspection on 22.11.2023, the UD was not discontinued. The site condition will be monitored for further prosecution action as appropriate.

## **6. Previous Application**

Part of the Site is the subject of a previous application (No. A/YL-NSW/290) for proposed residential development with wetland habitat, and associated filling of ponds and excavation of land which was rejected by the Committee in 2022, and is not relevant to the current application for temporary open storage use. Details of the previous application is summarised at **Appendix IV** and the location is shown on **Plan A-1**.

## **7. Similar Applications**

During the past five years, there is no similar application within the same “OU(CDWRA)” and “V” zones on the OZP. According to our record, since the “OU(CDWRA)” zone was designated in the area in 2000, there had been 10 applications (submitted between 2000 and 2008) for temporary open storage uses and all of them were rejected by the Committee and/or the Board on review mainly on the grounds that the applied use was not in line with the planning intention, incompatible with the rural character of the surrounding area; the development is not in line with the TPB PG-No. 12B and/or TPB PG-No. 13C/D and there was insufficient information to demonstrate that the applied use would not generate adverse impacts on the surroundings.

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

8.1 The Site is:

- (a) accessible via a local access from Kam Pok Road East;
- (b) currently used for open storage of construction materials and machinery without valid planning permission and there are some temporary structures for ancillary office uses;
- (c) involved filling of pond for the applied use; and
- (d) located within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas are rural in character mainly intermixed with ponds/dried ponds, residential dwellings, some open storage yards and a vehicle park (with a valid planning permission under application No. A/YL-NSW/318).

## **9. Planning Intention**

9.1 The planning intention of the “OU(CDWRA)” zone is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay. For application for uses developed individually and not forming part of a comprehensive development scheme, the requirement of the provision of wetland restoration proposal could be exempted.

- 9.2 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## 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 in the Recommended Advisory Clauses are provided in **Appendices V and VI** respectively.
- 10.2 The following government departments have specific comments on the application:

### Nature Conservation

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

- (a) he has reservation on the application; and
- (b) the western portion of the Site falls within the “OU(CDWRA)” zone and adjoins two fishponds to the west. Based on the site plan and aerial photos, the western portion of the Site actually overlaps with the eastern edge of the aforesaid fishponds which have been partly filled previously. These fishponds adjoin other fishponds to the west and north, forming a larger cluster of wetland. We are concerned that the applied use would cause indirect disturbance impact to this cluster of wetland, e.g. water pollution, noise, human activities, etc.

### Environment

- 10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application in accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) as there are sensitive receivers in the vicinity (i.e. the nearest residential dwellings located to the immediate northeast of the Site with a

distance of 12m) (**Plan A-2**) and the applied use involves the use of heavy vehicles<sup>1</sup>, and environmental nuisance is expected;

- (b) there was no environmental complaint received at the Site in the past three year; and
- (c) advisory comments as detailed in **Appendix VI**.

### Landscape

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

- (a) according to site photos taken in April 2023, the Site is fenced off and open storage of construction materials and machineries is in operation. No significant landscape resources is observed within the Site. According to Figure 6 – Landscape Plan, 29 nos. of trees are proposed at the periphery of the Site. Significant adverse impact on landscape resources arising from the applied use is not anticipated; and
- (b) based on the aerial photo of 2022, the site is located in a miscellaneous rural fringe landscape character comprising of low-rise residential buildings, temporary structures, farmlands, scattered tree groups and ponds adjacent to the site in the west. There is concern that approval of the application may alter the landscape character and degrade the landscape quality of the “OU(CDWRA)” zone.

### Traffic

#### 10.2.4 Comments of the Commissioner for Transport (C for T):

- (a) the subject site is connected to Kam Pok Road East via village roads/ private lands which are not managed by Transport Department. The land status of the local access roads should be clarified with the Lands Department by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (b) given that a residential site is located next to the Site and both sites would share one single run-in/out, the applicant should propose necessary road safety measures on this matter;
- (c) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period; and
- (d) advisory comments as detailed in **Appendix VI**.

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<sup>1</sup> According to the CoP, “heavy vehicles” include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes and bus.

## **11. Public Comments Received During Statutory Publication Period**

On 31.3.2023, the application was published for public comments. During the first three weeks of the statutory publication periods, five public comments were received from the property manager of Fairview Park, Fairview Park Management Advisory Committee, Green Sense, Kadoorie Farm and Botanic Garden Corporation, Hong Kong Bird Watching Society and an individual (**Appendix VII**) objecting to the application on the grounds that the applied use would generate heavy traffic flow to the Fairview Park Interchange which would exceed its capacity; there is operation for the applied use and filling of pond/land at the Site without valid planning permission and ENs have been issued for the UD; it is not in line with the planning intention of the WBA which intends to phase out existing sporadic open storage and port back-up uses; it is incompatible to the surrounding environment as the applied use would cause adverse disturbance to the ecological sensitive wetlands; and it would set an undesirable precedent to the future development in the ecological sensitive area.

## **12. Planning Considerations and Assessments**

- 12.1 The application is to seek planning permission for temporary open storage of construction materials and machinery with ancillary site office for a period of 1 year at the Site falling within the “OU(CDWRA)” and “V” zones of the OZP. The planning intention of the “OU(CDWRA)” zone is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. The applied use is not in line with the planning intention of the “OU(CDWRA)” zone which is intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. In addition, it is also not in line with the planning intention of “V” zone which is intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 12.2 The Site is in close vicinity of nearby ponds and residential dwellings within the “OU(CDWRA)” and “V” zones respectively. The applied use is considered incompatible with the surrounding major land uses with low-rise residential structures, ponds and vehicle parks in the vicinity (**Plan A-2**). The CTP/UD&L, PlanD indicates that approval of the application may alter the landscape character and degrade the landscape quality of the “OU(CDWRA)” zone.
- 12.3 According to TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. The applied use is only temporary in nature and the requirement of EcoIA submission can be exempted. Applications for new open storage or container back-up uses within the WBA, whether temporary or permanent, would normally not be allowed in view of the adverse disturbances of such activities on birds, in particular for such uses involving filling of contiguous ponds. However, DAFC has reservation on the application as the applied use would cause indirect disturbance impact to the cluster of wetland adjoining the Site. In addition, part of the Site involves filling

of pond and the Site is subject to active enforcement actions against the unauthorised storage use as detailed in paragraph 5 above. It is considered that the applied use is not in line with the TPB PG-No. 12C in that there is insufficient information in the submission to demonstrate that the development would not have adverse disturbance impact on the ecological integrity and ecological value of the fish ponds within the WCA in the Deep Bay Area.

- 12.4 The Site falls within Category 4 areas under the TPB PG-No. 13G. Applications for port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. The application is not in line with TPB PG-No. 13G in that no previous approval for the applied use has been granted for the Site and there are adverse departmental comments on ecological, environmental, landscape and traffic aspects. DEP does not support the application which involves parking of heavy goods vehicle and there are sensitive receivers in the vicinity of the Site (the nearest residential dwelling is located at about 12m north of the Site) and environmental nuisance is expected. The CTP/UD&L, PlanD also expresses concerns on the approval of the application would degrade the quality of the “OU(CDWRA)” zone. C for T has adverse comments on the application as the Site shares one single run-in/out with the adjacent residential site and necessary road safety measures shall be proposed. Although the application is applied for a period of 1 year mainly to allow time for relocation, there is no strong justification to support the application.
- 12.5 Since the “OU(CDWRA)” zone was designated in 2000, there had been 10 similar applications for temporary open storage use within the “OU(CDWRA)” zone and all of them were rejected by the Committee and/or the Board on review. Rejection of current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comments on the application as detailed in paragraph 11, the planning assessment and departmental comments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the applied use is not in line with the planning intentions of the “OU(CDWRA)” and “V” zones which is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands and to designate both existing recognized villages and areas of land considered suitable for village expansion. The applied use is incompatible with the rural character of the surrounding area. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (b) the applied use is not in line with the Town Planning Board Guidelines for Application for Developments within Deep Bay Area (TPB PG-No. 12C)



in that there is insufficient information in the submission to demonstrate that the applied use would not have adverse disturbance impact on the ecological integrity and ecological value of the fish ponds within the WCA in the Deep Bay Area. Applications for new open storage uses within the WBA would normally not be allowed in particular for such uses involving filling of contiguous ponds; and

- (c) the applied use is not in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) in that there is no previous planning approval for the applied use and there are adverse departmental comments on ecological, environmental, landscape and traffic aspects.

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 1 year until 22.12.2024. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road 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 22.6.2024;
- (c) the implementation of the 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 22.6.2024;
- (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 fire service installation 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 22.6.2024;
- (f) the implementation of the 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 22.6.2024;
- (g) the provision of fire extinguisher(s) 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 2.2.2024;
- (h) if any of the above planning condition (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;
- (i) if any of the above planning condition (b), (c), (e), (f) or (g) 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

- (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 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 the permission should be valid on a temporary basis.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 23.3.2023
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	FI received on 18.7.2023
<b>Appendix Ic</b>	FI received on 8.11.2023
<b>Appendix II</b>	Extract of TPB PG-No. 12C
<b>Appendix III</b>	Extract of TPB PG-No. 13G
<b>Appendix IV</b>	Previous Application
<b>Appendix V</b>	Government departments' general comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Appendix VII</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2023**