

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/578

- Applicant** : Most Rich Investment Limited represented by Top Bright Consultants Limited
- Sites** : Lot 769 RP (Part) in D.D. 99, San Tin, Yuen Long
- Site Areas** : About 70,679 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”)
- Applications** : Temporary Container and Goods Vehicle Park and Open Storage of Construction Materials with Ancillary Tyre Repair Area, Site Office, Staff Canteen and Storage Uses for a Period of 18 Months

1. The Proposals

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary container and goods vehicle park and open storage of construction materials with ancillary tyre repair and storage uses for a period of 18 months (**Plan A-1a**). The Site falls within an area zoned “OU(CDWRA)” on the approved San Tin OZP No. S/YL-ST/8. The applied uses are neither Column 1 nor Column 2 uses of the “OU(CDWRA)” zone. According to the covering Notes of the OZP, temporary uses not exceeding a period of three years may be allowed subject to planning permission from the Town Planning Board (the Board), notwithstanding that the uses or developments are not provided for in terms of the OZP. The Site is currently paved and used for the applied uses together with workshops without valid planning permission (**Plan A-2**).
- 1.2 The Site in whole or in part is the subject of 21 previous planning applications for permanent residential developments and various temporary uses, including 3 applications (No. A/YL-ST/553, 554 and 558) submitted by the same applicant as the current one for similar applied uses as the current application which were rejected by the Committee on 20.3.2020. Each of the above 3 applications occupy

different parts of the current Site (**Plan A-1d**), and their total area is larger than the current Site. The applicant has applied for a review of the Committee’s decision to reject these 3 cases. The Board on 25.9.2020 agreed to defer the consideration of the reviews pending the preparation and submission of further information by the applicant to address departmental comments.

1.3 The Site is accessible from Castle Peak Road – San Tin via local access. As compared to the three rejected applications, the number of run-in/run-outs has been reduced from 3 (one each for the respective application) to 2. As shown in **Drawing A-1**, two vehicular entrances of about 10-11m wide will be provided at the eastern side of the Site and manoeuvring and queuing spaces will be provided within the Site to avoid queuing back to or reversing onto the public road/local track. The layout plan, landscape plan, stormwater drainage plan and details of temporary structures are at **Drawings A-1 to A-5**. The major parameters of the current application in comparison with the 3 review applications are as follows:

	Rejected Applications No. A/YL-ST/553, 554 and 558	Current Application (b)	Difference (b)-(a)
Period of Approval Sought	3 years	18 months	-18 months
Site Area	91,427 m ²	70,679 m ²	-20,278 m ² (-23%)
Applied Use	Temporary Container and Goods Vehicle Park and Open Storage of Construction Materials with Ancillary Tyre Repair Area, Vehicle Repair Area, Site Office, Staff Canteen and Storage Uses	Temporary Container and Goods Vehicle Park and Open Storage of Construction Materials with Ancillary Tyre Repair Area, Site Office, Staff Canteen and Storage Uses	vehicle repair area deleted
No. of Structures and Building Height,	111 (2-6m, 1-2 storeys)	73 (2.5-6m, 1-2 storeys)	-38 (-34%)
Total Floor Area	12,540 m ²	9,773 m ²	-2,767 m ² (-22%)
No. of Parking Spaces	<ul style="list-style-type: none"> • 217 container vehicle • 108 container trailer • 12 medium goods vehicle • 40 staff/visitors 	<ul style="list-style-type: none"> • 147 container vehicle • 108 container trailer • 12 medium goods vehicle • 22 staff/visitors 	<ul style="list-style-type: none"> • -70 (-32%)] no change] no change • -18 (-45%)
Operating Hours	• 9:00 a.m. to 6:00 p.m.	<ul style="list-style-type: none"> • 8:00 am to 6:00 pm • 24 hours for container vehicle parking (no entry/exit other than 8am to 6pm) 	+ 1 hour
	Mondays to Saturdays, closed on Sundays and public holidays		

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

- (a) Application Form received on 18.9.2020 and letter dated 23.9.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Traffic Impact Assessment (TIA) of Application No. A/YL-ST/553 **(Appendix Ib)**
- (d) TIA of Application No. A/YL-ST/554 **(Appendix Ic)**
- (e) TIA of Application No. A/YL-ST/558 **(Appendix Id)**
- (f) Further Information (FI) with 3 letters dated 29.10.2020 (i) providing responses to departmental comments; (ii) submitting a revised drainage proposal and (iii) clarifying the site layout and relocation proposal # **(Appendices Ie to Ig)**

exempted from publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in the Supplementary Planning Statement and FIs at **Appendices Ia to Ig**. They can be summarized as follows:

- (a) To address the comments from the Board and departments on the 3 previous applications, active steps have been undertaken as follows:
 - (i) the Site in the current application has been set back from the previous boundaries along the periphery largely in the north and west and slightly in the east¹, which will be left vacant to provide buffer areas in the north from the existing settlement, in the west from the existing stream and the east from the adjoining fish ponds;
 - (ii) peripheral channels (700mm dia. drain) will be constructed to intercept all surface runoff within the Site and discharged via 2 terminal manholes with desilting traps in the southeastern and southwestern side of the Site to the existing watercourse so as to avoid overflow onto adjoining areas (**Drawing A-3**);
 - (iii) environmental mitigation measures (Appendix C of **Appendix Ia**) will be adopted which include hard paving (not new paving) of the Site to limit dust emissions from vehicles, erection of a 2m corrugated metal fencing and

¹ The setback distance from previous site boundaries of the 3 applications is not provided by the applicant. By measurement, the current site boundaries have been set back from the previous boundaries by about 32m in the north, about 55m to 92m in the west and about 20m in the east (**Plan A-1d**), whereas the application site boundary in the south has largely remained the same as the previous applications.

planting of peripheral trees to minimize noise nuisance, no operation at night time and on Sundays and public holidays and operation hours were limited to 8:00 am to 6:00 pm; maintenance of the existing landscaping and fencing by the applicant with provision of additional landscaping upon approval of the current application (**Drawing A-2**); and

- (iv) actively in search of alternative sites for relocation of the current open storage and vehicle parking activities on the Site in areas along Sha Tau Kok Road and Ping Che Road (such as the “Industrial (Group D)” (“I(D)”) and “Open Storage” (“OS”) zones under the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14), which is in close proximity (about 5.5 km) to the Liantang/Heung Yue Wai Boundary Control Point (LT/HYW BCP) (**Appendix Ig**).
- (b) The applied development would not frustrate the planning intention of “OU(CDWRA)” and are not incompatible with the surrounding port back-up uses.
- (c) The Site had been hard paved and previously used for car racing, car repair/maintenance (the northeastern and eastern part of the Site previously under Applications No. A/YL-ST/553 and 554) and ship building repairing yard (the western part of the Site previously under Application No. A/YL-ST/558). It was then used for parking of vehicles with ancillary open storages in past years. There is a genuine demand for parking of container vehicles near the boundary crossing and the current facilities on the Sites are well-established. Integral parking facility is playing an important role in serving the cross-boundary trade.
- (d) Approval of the applications would not contravene the Town Planning Board Guidelines (TPB Guidelines) No. 12C as open storage or container back-up uses located close to the Lok Ma Chau crossing and without involving pond filling might be sympathetically considered by the Board in view of the strategic location of the Site in close proximity to the Lok Ma Chau crossing and the genuine need to facilitate cross-boundary movements of goods in the area.
- (e) In accordance with the TPB Guidelines No. 13F, the Sites fall within “Category 4 Areas”. The Site is the subject of previous planning approvals; the applied use would not generate adverse environmental, visual, traffic and drainage impacts on the surrounding areas; and the Site is near the existing cross-boundary control point in Lok Ma Chau and the applied uses provide the much needed vehicle parking facilities serving the cross-boundary trade for over the past 30 years till the present moment.
- (f) The cross-boundary container traffic in Lok Ma Chau is decreasing mainly due to the new port development in Shenzhen, the commissioning of the Hong Kong-Shenzhen Western Corridor with a new control point at Shekou, Shenzhen and the opening of LT/HYW BCP in August 2020. Truck crossing at the Lok Ma Chau Boundary Control Point will soon be terminated. The possible impact arising from the vehicle parking activities at the Site will generally reduce. TIAs had been conducted for the 3 previous applications (No. A/YL-ST/553, 554 and 558) which concluded that the applied uses would not generate adverse traffic impact on the surrounding road network. The current application is smaller in scale in terms of size, area, types of vehicle parking spaces and usage. The traffic generated by the

development will result in a decrease in the existing traffic, which ultimately improves the surrounding road network.

- (g) No adverse environmental, drainage, visual and traffic impacts are envisaged. Landscape impact can be minimized with the proposed landscape and tree preservation proposal.
- (h) As a result of the Covid-19 pandemic, the search of relocation sites has been affected. The applicant seeks sympathetic consideration from the Board for a period of 18 months for operation of the applied uses at the Site with a view to identifying alternative locations, liaising with relevant land owners and local stakeholders and obtaining necessary approvals for the relocation.

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 (the Ordinance) (TPB PG-No. 31A) by publishing a notice in local newspapers, posting site notice and sending notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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)

4.1 According to TPB PG-No.13F, the Site falls within Category 4 areas. The following criteria are relevant:

- (a) applications for open storage and port back-up uses would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant), and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical assessments/proposals have been included in the fresh application, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. Since the planning intention of Category 4 areas is to phase out the open storage and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits; and

- (b) taking into account the demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in areas of close proximity to the border crossing points, such as in the San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau, may also be considered. Application of such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas, and each case will be considered on its individual merits.

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

4.2 According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds;
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. However, some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA; and
- (c) application for new open storage or container back-up uses including workshops 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, open storage or container back-up uses located close to the Lok Ma Chau crossing 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.

5. Background

The Site is subject to 2 active planning enforcement cases (e-cases) for unauthorized developments (UDs). One involves UD of uses for parking of vehicles, storages (including deposit of containers), workshops and fuel filling stations, and the other involves UD of uses for parking of vehicles and fuel filling station. Enforcement Notices (ENs) were issued on 30.4.2019 and 21.5.2019 respectively requiring discontinuation of the UD (Plan A-1c). Since the UD has not been discontinued upon expiry of the respective notices, prosecution actions are being taken.

6. Previous Applications

- 6.1 The Site in whole or in part is the subject of 21 previous applications. 17 were for temporary container tractor/trailer parks with or without storage of building machinery/material, container vehicle park, tyre repair workshop or open storage of electricity accessories/construction machinery, and 4 were for permanent residential developments on much larger sites. Amongst them, 6 applications (No. A/YL-ST/93, 149, 273 on same site, 379, 381 and 382) for temporary container tractor/trailer parks, vehicle repair workshop with or without open storage uses were approved by the Committee or the Board on review between 1999 and 2010 on special circumstances, while all other applications had been rejected.

Temporary Uses under the then “Residential (Group D)” (“R(D)”) Zone

- 6.2 When the Sites were under the then “R(D)” zone, 3 previous applications for temporary uses were processed of which 2 were rejected. Application No. A/YL-ST/22 for temporary open storage of electricity cable, electricity wire/accessories and electricity generator was rejected by the Committee in 1997 mainly on grounds that the development was not in line with the planning intention of “R(D)” zone and approval of the application would set an undesirable precedent for other similar applications in the area. Application No. A/YL-ST/32 for temporary open storage of machinery for foundation construction was rejected by the Committee in 1997 on grounds that the development was not in line with the then TPB PG-No. 12; and the development was not compatible with the fish ponds to its further north and the Mai Po Village Egret SSSI to its southwest, not in line with planning intention of “R(D)” zone, and setting of undesirable precedent.
- 6.3 Application No. A/YL-ST/93 on a larger site for temporary container tractor/trailer park was approved in 1999 by the Committee for a period of 12 months mainly as an interim arrangement to alleviate the acute shortage of port back-up land in the area considering the site was close to Lok Ma Chau, and to allow for a timely review of the land uses in the area in the context of the then TPB PG-No. 13B, and considering the proposed use had no significant adverse impacts.

Temporary Uses under “OU(CDWRA)” Zone

- 6.4 14 previous applications for temporary uses were processed under “OU(CDWRA)” zone, of which 5 were approved and 9 were rejected.
- 6.5 Application No. A/YL-ST/149 (same site as 93) for temporary container tractor/trailer park and open storage of building materials was approved by the Committee for a period of 29 months² in 2000 as interim arrangement to alleviate the acute shortage of port back-up land in the area.
- 6.6 Applications No. A/YL-ST/166, 178 and 223 for container tractor/trailer parks, and No. A/YL-ST/220, 250 and 298 for container tractor/trailer parks with open storage of machinery were rejected by the Committee or the Board on review between 2001 and 2006 mainly on grounds that the developments were not in line

² This approval period up to 3.3.2003 is to tally with the validity of similar Applications No. A/YL-ST/109 and 137. Details of these 2 similar applications are at paragraph 7.2.

with the planning intention of “OU(CDWRA)” zone and did not comply with the then TPB PG-No. 12B; there was insufficient information in the submission to demonstrate that the development would not have adverse impacts on the surrounding areas; and the approval of the application would set an undesirable precedent for other similar applications within the “OU(CDWRA)” zone.

- 6.7 Applications No. A/YL-ST/273 for temporary container tractor/trailer park and open storage of building materials, 379 for container storage yard and vehicle park with ancillary vehicle repair area and site office, 381 for temporary tyre repair workshop with ancillary site office, and 382 for temporary container vehicle park were approved by the Board on review between 2004 and 2010 respectively for periods of 6 or 12 months all on sympathetic grounds to allow time for relocation of the uses to other suitable locations. However, all the applications were subsequently revoked between 2005 and 2010 due to non-compliance with approval conditions.
- 6.8 Applications No. A/YL-ST/553, 554 and 558 were submitted by the same applicant for similar applied uses as the current application. These 3 applications were rejected by Committee on 20.3.2020 at the s.16 stage mainly on grounds that the development was not in line with the planning intention of “OU(CDWRA)” zone and the TPB Guidelines Nos. 12C and 13E, there were adverse departmental comments on the environmental, ecological and landscape impacts and local objections, and approval of the application would result in a general degradation of the environment in Deep Bay area. The applicant sought planning review of the Committee’s decisions on the 3 applications, and the Board on 25.9.2020 agreed to defer making decisions on the applications for two months to allow time for the applicant to prepare further information to address departmental comments. The review applications will be submitted to the Board for consideration within 3 months upon receipt of the further information from the applicant.

Permanent Residential Developments Covering Larger Sites

- 6.9 The Sites were involved in 4 previous applications for permanent residential developments which were all rejected between 1993 and 2009. Details of these applications are summarized at **Appendix II**. Their locations are shown on **Plans A-1b to A-1c**.

7. Similar Applications

- 7.1 Within the “OU(CDWRA)” zone on the OZP, there are 15 applications for similar temporary vehicle parks uses involving container vehicles/trailers/tractors, amongst which 5 were approved with conditions by the Committee, the Board on review or the Town Planning Appeal Board (TPAB) between 2000 and 2006 on special circumstances. The remaining 10 applications were all rejected, with the last one rejected on review by the Board on 13.3.2020.
- 7.2 Amongst the 5 approved applications, 2 (No. A/YL-ST/109 and 137) were approved in 2000 for 3 years and 31 months respectively on considerations that the proposed uses had no significant adverse impacts and the temporary approvals being interim arrangement could help alleviate the acute shortage of port back-up

land and allow for a timely review of the land uses in the area. Application No. A/YL-ST/227 was approved in 2003 by the Committee for a period of 12 months on the condition of prohibiting parking of heavy goods vehicles and container vehicles. The remaining 2 applications (No. A/YL-ST/182 and 253 on same site) were approved by the TPAB in 2002 and 2006 respectively for a maximum period of 6 or 12 months mainly on sympathetic grounds to allow time for relocation of the uses to other suitable locations. Applications No. A/YL-ST/109 and 137 were subsequently revoked due to non-compliance with approval conditions, and the planning approval of the remaining 3 already lapsed.

- 7.3 For the remaining 10 rejected applications, 9 were rejected by the Committee or the Board on review between 2001 and 2007 mainly on grounds that the developments were not in line with the planning intention of the “OU(CDWRA)” zone, not complied with the then TPB PG-No. 12B and 13C/13D; there was insufficient information to demonstrate that the developments would not have adverse impacts; and approval of the application would set an undesirable precedent for other similar applications within the same zone. The last application No. A/YL-ST/547 (to the south of the Site) was rejected by the Board on review on 13.3.2020 mainly for the reasons that the development was not in line with the planning intention of “OU(CDWRA)” zone.
- 7.4 Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1a**.

8. The Sites and Their Surrounding Areas (Plans A-1a to A-4e)

- 8.1 The Site is:
- (a) accessible from Castle Peak Road – San Tin in the east via a local access;
 - (b) hard-paved;
 - (c) located within the WBA; and
 - (d) currently used for the applied uses together with workshop without valid planning permission.
- 8.2 The surrounding area is intermixed with storage/open storage yards, scattered residential dwellings, some unused/vacant land and ponds:
- (a) to the immediate north, northwest and east are extensive ponds in the WCA and the “Other Specified Uses” annotated “Comprehensive Development and Wetland Enhancement Area” (“OU (CDWEA)”) zone, residential dwellings (the nearest are at about 29-49m to its north), unused land and open storage yard;
 - (b) to the immediate south are a stream course, unused and vacant land, residential dwellings (the nearest is at about 20m to its south); and

- (c) to the immediate west are a stream course and unused land in the “Conservation Area” (“CA”) zone within WCA.

9. Planning Intention

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. Any new building should be located farthest away from Deep Bay.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. Besides, given the applied uses are temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor as its sole discretion and there is no guarantee that such applications will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to Castle Peak Road – San Tin via a section of a local access which is not managed by Transport Department (TD). The land status of the local access should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin. The applicant should be responsible for his own access arrangement.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

He has no comment on the application from railway development viewpoint. The Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of railway systems.

Environment

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

- (a) No environmental-related complaint related to the Site was recorded in the past 3 years.
- (b) In view of the temporary uses of the application, the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP) is applicable for consideration of the application. The application should not be supported based on the COP in that the use will generate traffic of heavy vehicles and based on Figure 3 of the Noise Impact Assessment (NIA) as per Appendix C of the Planning Statement (**Appendix Ia**), there are village houses within 100m from the site boundary. In particular, according to section 1.3 of the COP, *“Heavy vehicles to and from sites of temporary uses are not actionable under existing ordinances. Even though the traffic noise from vehicles does not exceed the Hong Kong Planning Standards and Guidelines (HKPSG) criterion, it might still cause noise nuisances to residents and lead to complaints. Noise nuisances, for example, can be due to traffic of heaving vehicles, which can be particularly disturbing during early morning or nighttime hours.”*

- (c) The NIA has not demonstrated that the traffic of heavy vehicles generated by the 24-hour operation of the container vehicle park would not cause noise nuisance. It is noted that S.3.5d of NIA confirmed that 52 container vehicles related to the Site were recorded passing through the access road between 0000-0700 hours during a night-time survey. Table 2.1 & Table 3.7 of the NIA also mentioned 24 hours operation of the container vehicle park. His technical comments on the NIA is at **Appendix IV**.
- (d) Apart from the noise nuisance, the Site falls within WBA and is adjacent to a number of ponds and also falls within Deep Bay catchment area where the assimilative capacity is limited. He has concerns that the subject uses would result in adverse water quality impact:
 - (i) The Site falls within WBA as designated in TPB-PG No. 12C and within “OU(CDWRA)” zone in the approved San Tin OZP and is in close proximity to a natural stream and a number of ponds. According to the Explanatory Statement of the OZP, the “OU(CDWRA)” zone is intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands.
 - (ii) It is noted the Site has been used as a container and goods vehicle park and open storage site for some time. Supplemented by the recent site inspection in October 2020, it is considered that the area and the water sensitive receivers in close proximity to the Site are not capable to accommodate such an excessive development of a container vehicle park and open storage site with inadequate pollution control measures. The existing operation is potentially degrading the environment and should not be encouraged to continue before adequate mitigation measures are implemented to avoid causing further damage to the environment.
 - (iii) The application as a temporary container vehicle park and open storage site is very similar to the existing activity in nature, if not exactly the same. The current application fails to demonstrate that the surrounding environment can be sustained with the proposed development, including but not limited to the concern on sewage treatment on site, control of contaminated surface runoff and prevention of potential land contamination (and thus groundwater contamination).
 - (iv) Based on the information provided in the planning statement and the FI, it is uncertain whether the proposed mitigation measures are adequate or can be implemented in time for such an excessive development on a land of 7 ha to avoid further damaging the currently degraded environment at close proximity.

- (e) Based on the above considerations, as the applicant fails to demonstrate that the applied uses would not cause noise nuisance and adverse water quality impact, the application should not be supported.

Nature Conservation

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

- (a) The Site is located within the WBA in proximity to the fish ponds in the WCA. According to the TPB PG-No. 12C, the planning intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. I trust that PlanD/TPB would take into account the planning intention of the WBA and relevant factors, such as local needs, to give a balanced consideration on the subject application.
- (b) The Site falls within “OU(CDWRA)” zone which, according to the OZP, 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. The current application does not have information to show that it would comply with the planning intention of the WBA or the “OU(CDWRA)” zone. As such, he has reservation on the application.

Landscaping

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

- (a) The Site, located to the southeast of Lin Barn Tsuen and north of Castle Peak Road – San Tin, falls within an area zoned “OU(CDWRA)” on the OZP.
- (b) With reference to the aerial photos taken in 2018 and 2019, the Site is situated in an area of rural landscape character. The Site is adjoining to “CA” zone in the northwest and west which are mainly covered by vegetation and trees. Fish ponds are found to the north and unauthorized temporary structures as well as open storage uses are found to the northeast and south of the Site. It is considered that the development is not compatible with the landscape setting of the area.
- (c) According to the survey photos taken on 25.9.2020, the current Site was hard paved and in operation as the applied uses without planning permission. The landscape environment of the area had been degraded. With reference to the Supplementary Planning

Statement at **Appendix Ia to Id**, 83 nos. of new tree planting will be proposed and all existing trees within the Site will be preserved. Given that existing tree groups of common species were found in the vicinity largely along the northern, eastern and southern parts of the Site, the contribution of the proposed new tree planting to enhance the landscape quality would be insignificant. Noting the planning intention of the “OU(CDWRA)” zone is to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for restoration of degraded wetlands adjoining existing fish ponds, there is concern that approval of the application would set an undesirable precedent for other similar uses in the immediate neighbourhood within the same zone and the adverse impact on the landscape setting would continue if these incompatible uses were allowed. As such, she has some reservations on the application from the landscape planning perspective.

- (d) In view that some existing trees along the boundary outside the Site act as landscape buffer to the adjacent area, it is opined that landscape condition is not recommended, should the application be approved by the Board.
- (e) On the other hand, it is noted the applicant seeks temporary planning permission for a period of 18 months in anticipation of relocating the existing non-compatible uses/operations from the Site in order to address the requirements under the ENs. Provided that the existing non-compatible uses/operations at the Site will be relocated altogether upon expiry of the planning permission as committed by the applicant, there is no comment on the temporary permission to be sought only in this particular circumstance.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and

- (iii) good practice guidelines for open storage should be adhered to (**Appendix V**).
- (c) Having considered the nature of the open storage, the following approval condition is suggested, and the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval to address the approval condition:

the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the applied uses in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.

- (f) The Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plans (BPs) submission stage. Detailed checking under the BO will be carried out at the BPs submission stage.

Drainage

10.1.10 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The drainage proposal (**Appendix If**) has been checked to be generally in order. The applicant should be reminded that the drainage proposal should demonstrate how he will collect, convey and discharge rain water falling onto or flowing to the Site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow, etc.) with supporting design calculations and charts should be included. Approval of the drainage proposal should be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide DSD sets of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plans for reference.
- (d) Details of his advisory comments are at **Appendix VII**.

Environmental Hygiene

10.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

Details of his advisory comments are at **Appendix VII**.

District Officer's Comments

10.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has no comment on the application and his Office has not received any comments from the locals on the application.

10.2 The following Government departments have no objection to or no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Project Manager (West), Civil Engineering and Development Department

- (PM/W, CEDD);
- (c) Head of Geotechnical Engineering Office (H(GEO)), CEDD;
 - (d) Director of Electrical and Mechanical Services (DEMS);
 - (e) Director of Leisure and Cultural Services (DLCS); and
 - (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 25.9.2020, the application was published for public comments. During the first three weeks of the statutory publication period, 6 comments were received from a member of the Yuen Long District Council (YLDL), World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited and an individual. They raised objection on the grounds that there was no new reason and no justifications to substantiate the current application; the development was not in line with the planning intention of the “OU(CDWRA)” zone, the WBA and the TPB PG-No. 12C; the “destroy first, develop later” attitudes should be deterred; unauthorized uses continued at the Site; there was urgency in maintaining the Site as wetland buffer in view of global warming; approval of the application would legitimize the unauthorized development and set an undesirable precedent (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary container and goods vehicle park and open storage of construction materials with ancillary tyre repair area, site office and storage uses at the Site for a period of 18 months. The Site falls within “OU(CDWRA)” zone which 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, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. The Site also falls within the WBA and are close to the WCA. According to TPB PG-No. 12C, the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. The applied uses are not in line with the planning intention of the “OU(CDWRA)” zone and TPB PG-No. 12C. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.
- 12.2 Compared to the previous developments under the 3 applications rejected in March 2020, the applicant has reduced the scale of the development in the current application with a smaller site area (-20,278 m² or -23%), fewer structures and fewer vehicle parking spaces. The applicant has also submitted environmental assessment and drainage proposal, and proposed to erect 2m-high corrugated metal fencing and plant additional trees along the site periphery as buffer areas with a view to ameliorating the adverse impacts of the applied uses. A shorter approval period of 18 months is sought pending intended relocation to the Ping Che/Ta Kwu Ling area which is closer to the newly established Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP). Notwithstanding the

modifications/revisions being proposed, the uses proposed are essentially the same as that under the previous applications and the mitigation measures proposed are considered inadequate to address the concerns on possible adverse impacts on the environment.

- 12.3 The surrounding areas are predominantly ponds, scattered residential dwellings and UD's of storage/open storage yards. The applied uses are considered incompatible with the surrounding areas. DEP does not support the application as the applicant fails to demonstrate that the applied uses would not cause noise nuisance and adverse water quality impact. DEP advises that as there are sensitive receivers in the vicinity of the Site (the nearest residential dwellings are located about 29-49m from the northern boundaries of the Site and 20m from its southern boundary) (**Plan A-2**), environmental nuisance is expected. The submitted NIA fails to demonstrate that the heavy vehicles traffic would not cause noise nuisance. Besides, the Site falls within WBA and are adjacent to a number of ponds and within Deep Bay catchment area where the assimilative capacity is limited, hence there is concern that the subject uses would result in adverse water quality impact. The applicant has failed to demonstrate that the surrounding environment could be sustained with the proposed development, including but not limited to the concern on sewage treatment on site, control of contaminated surface runoff and prevention of potential land contamination (and thus groundwater contamination).
- 12.4 DAFC has reservation on the application as the Site is within WBA in proximity to the fish ponds in WCA and the applicant fails to demonstrate compliance with the planning intention of WBA or "OU(CDWRA)" zone. CTP/UD&L, PlanD has some reservations on the application as the applied uses are not compatible with the existing landscape setting of the area, the proposed new tree planting is insignificant to enhance the landscape quality of the area and approval of the application would set an undesirable precedent for other similar uses in the immediate neighbourhood within the same zone and the adverse impact on the landscape setting would continue if these incompatible uses were allowed.
- 12.5 As stated in paragraph 4.1 above, the Site falls within Category 4 areas under TPB PG-No. 13F and application would normally be rejected except under exceptional circumstances. It is also mentioned that applications for cross-boundary parking facilities at suitable sites in areas of close proximity to the border crossing points, such as in the San Tin area, may be considered in light of its own merits and subject to satisfactory demonstration of no adverse impacts on the surrounding areas. The application is considered not in line with the TPB PG-No. 13F in that there are adverse comments from concerned departments including DEP and DAFC, and objections from the public including the green groups and locals/public; and the applicant has failed to demonstrate that the proposed uses would not have adverse environmental and ecological impacts on the surrounding areas.
- 12.6 The Site is the subject of 14 previous applications for temporary container vehicle park/vehicle repair workshop uses within "OU(CDWRA)" zone, of which 9 (including the 3 applications of No. A/YL-ST/553, 554 and 558 currently under review) were rejected by the Committee between 2001 and 2020. The remaining 5 previous applications approved by the Committee or the Board on review

between 2000 and 2010 for period of 6 months to 3 years were all approved on special circumstances, i.e. to alleviate the acute shortage of port back-up land in the area, to allow for timely review of the land uses in the area and to allow time for relocation. Among the 15 similar applications for similar container vehicle parking uses within the areas covered by “OU(CDWRA)” zone, 10 were rejected by the Committee and the Board on review between 2001 and 2020 while 5 were approved on special circumstances mainly being interim arrangement to alleviate the acute shortage of port back-up land in the area, to allow for timely review of the land uses in the area and to allow time for relocation. The details of these applications are set out in paragraphs 6 and 7. Though the applicant has indicated his intention to relocate from the Site to area in Ping Che/Ta Kwu Ling considering the commissioning of the LT/HYW BCP in August this year, there are no details in terms of the timing, sequence and possible sites for relocation. As such, it is considered that there are no specific circumstances pertaining to the application that may warrant sympathetic consideration by the Committee. Rejection of the application is in line with the previous decisions of the Committee and the Board on similar applications in the area.

- 12.7 There are 6 public comments, all objecting to and raising concerns on the development as detailed in paragraph 11. The planning considerations and the departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessments in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for following reasons:

- (a) the proposed development is not in line with the planning intention of the “OU(CDWRA)” zone, which 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, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the proposed development is not in line with the Town Planning Board Guidelines for Application for Developments within Deep Bay Area (TPB PG-No. 12C) in that the applicant fails to demonstrate that the proposed development would not have adverse ecological impacts on the surrounding areas. The approval of the application would result in a general degradation of the environment in Deep Bay area; and
- (c) the proposed development is not in line with the Town Planning Board Guidelines for Application for Temporary Open Storage and Port Back-up Uses (TPB PG-No. 13F) in that there are adverse departmental comments on the environmental and ecological aspects and local objections.

- 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 18 months until 6.5.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (d) the maintenance of boundary fencing of the Site at all times during the planning approval period;
- (e) the submission of a drainage proposal 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 6.2.2021;
- (f) in relation to (e) above, 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 6.5.2021;
- (g) the implemented drainage facilities within the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.2.2021;
- (i) in relation to (h) above, the provision of fire service installations 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 6.5.2021;
- (j) 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 18.12.2020;
- (k) 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;
- (l) if any of the above planning conditions (e), (f), (h), (i) or (j) 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

- (m) upon expiry of the planning permission, the reinstatement of the application 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 VII**.

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

Appendix I	Application Form received on 18.9.2020 and letter dated 23.9.2020
Appendix Ia	Supplementary Planning Statement
Appendices Ib to Id	TIA's of Application No. A/YL-ST/553, 554 and 558
Appendix Ie	FI of 29.10.2020 providing response to comments
Appendix If	FI of 29.10.2020 providing revised drainage proposal
Appendix Ig	FI of 29.10.2020 providing relocation proposal
Appendix II	Previous applications covering the Site
Appendix III	Similar applications
Appendix IV	Detailed Departmental Comments
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendix VI	Public comments received during the statutory publication period
Appendix VII	Recommended advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Plan
Drawing A-3	Stormwater Drainage Plan
Drawings A-4 and A-5	Details of Temporary Structures
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-1c	Previous Applications Plan for Residential Use
Plan A-1d	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a and A-4e Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**