

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKLN/29

- Applicant** : Mr. YIP Chi-chiu, Frankie (Manager of IP Shiu King (or Keng) Tso) represented by Ying Shing (Hopewell) Engineering Company Limited
- Site** : Lot 487 S.B RP in D.D. 80 and Adjoining Government Land, Lin Ma Hang Road, Ta Kwu Ling North, New Territories
- Site Area** : About 5,033 m² (including about 328 m² of Government land)
- Land Lease** : (a) Block Government Lease (demised for agricultural use) (about 93.5% of the Site)
(b) Government land (about 6.5% of the Site)
- Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Warehouse and Open Storage of Containers for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary warehouse and open storage of containers for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “REC” on the approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2. According to the Notes of the OZP, temporary use not exceeding a period of three years within “REC” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for in terms of the Plan. The Site is currently formed and partly paved (**Plans A-4a to A-4c**).
- 1.2 According to the applicant, the proposed development involves one 1-storey structure (about 10 m in height) with total floor area of about 1,700 m² for storage of machineries at the central part of the Site (**Drawing A-1**). There would be a passageway within the structure to allow container vehicles to pass through. The rest of the uncovered area within the Site would be used for open storage of containers. One parking space shared by heavy goods vehicle/ container vehicle is proposed at the eastern part of the Site (**Drawing A-1**). The Site is accessible from Lin Ma Hang Road via a local road (**Plan A-1**). The proposed operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to

Sundays and there will be no operation on public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with attachments received on 22.11.2019 (Appendix I)
- (b) Further Information received on 6.1.2020 (Appendix Ia)
(*exempted from publication*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) Liantang/Heung Yuen Wai Boundary Control Point (LT/HYW BCP) is due to open soon. To cater for Guangdong-Hong Kong-Macao Greater Bay Area development, the applicant therefore has submitted the application seeking planning permission to use the “REC” site for warehouse/ open storage use;
- (b) it is expected that there would be significant amount of vehicular trips generated by goods vehicles upon opening of the BCP. The Site should be used for transport related uses instead of recreation uses and hence more job opportunities would be created; and
- (c) the application is supported by village representative and villagers. Favourable consideration should be given to this application.

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

The applicant is one of the “current land owners” and 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 taking reasonable steps to obtain the consent of or give notification to the owner including sending a notice to the Sha Tau Kok District Rural Committee and posting site notice. For the adjoining Government land, TPB PG-No.31A is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advises that the Site is currently not subject to planning enforcement action. It is noted that the Site was paved with concrete. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action will be taken.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Application

There is no similar application for temporary warehouse and open storage uses within the “REC” zone in the vicinity of the Site in the Ta Kwu Ling North area.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4c)

7.1 The Site:

- (a) is formed and hard paved; and
- (b) is accessible from Lin Ma Hang Road via a local road (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast are some vacant land and to the further north is the boundary patrol road and Shenzhen River. The Site is situated at a boundary location with the Shenzhen Municipal City to its north across the Shenzhen River (**Plan A-2**);
- (b) to its immediate west are some warehouses and vacant/ domestic structures. To the further west are a local road and some fallow agricultural land; and
- (c) to its south and beyond are Lin Ma Hang Road, some unused land and some burial urns.

8. Planning Intention

The planning intention of the “REC” zone in Ta Kwu Ling North area is intended primarily for low-density 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 low-density recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (i) the Site comprises private Lot 487 S.B RP in D.D. 80 which is an Old Schedule lot held under the Block Government lease (demised for agricultural use) without any guarantee of right of access. The applicant should make its own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (ii) the existing structures on Site were erected without approval from his office and are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the unauthorised structures;
- (iii) the existing structures on Site encroach onto Lot 485 RP in D.D. 80 which is adjacent to the application lot (**Plan A-2**);
- (iv) a piece of Government land was found fallen within the application boundary but outside the actual occupation boundary (**Plan A-2**);
- (v) the number and area of existing structures on the site exceeds the proposed development schedule;
- (vi) some building works was found in progress during his site inspection in December 2019. Most of the Site was fenced up by iron hoardings; and
- (vii) should the application be approved, the owner(s) of the lot(s) concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) to cover all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

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

- (a) he does not support the application from traffic engineering point of view. The applicant should provide the following information/ measures for his consideration:
 - (i) the applicant should advise the details of the warehouse to be operated at the Site;
 - (ii) the applicant should advise if the containers to be stored at the Site are empty or laden;
 - (iii) the applicant should advise and substantiate the traffic generation and attraction from and to the Site and the traffic impact to the nearby road

links and junctions;

- (iv) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
- (v) the width of the vehicular access should be no less than 7.3m;
- (vi) the applicant should provide a scale drawing showing the layout of the Site and proposed parking spaces and loading/unloading;
- (vii) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
- (viii) the applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the Site; and
- (ix) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety.

Environment

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

- (a) he does not support the application as the temporary development is expected to generate traffic of heavy vehicles and there are domestic structures in the vicinity of the Site with the closest one located about 51 m to the southwest of the Site (**Plan A-2**);
- (b) there was one environmental complaint against waste at the Site received in early 2019 regarding suspected land filling at the Site and nearby lots. However, acknowledgement on owners' permission of the depositing of construction waste on the concerned private lots was given by his department. No violation of Waste Disposal Ordinance was detected. The person in charge on Site was reminded to maintain good site practice to avoid dust nuisance;
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites"; and
- (d) the applicant should also be reminded of his obligation to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, to prevent any pollution of nearby watercourse during construction and operation stages of the proposal.

Landscape

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

- (a) she has some reservations on the application from the landscape planning perspective;
- (b) based on the aerial photos of 2017 to 2018, the Site is situated in an area of rural landscape character comprises clusters of trees, temporary structures, and densely vegetated woodland in an area zoned “Green Belt” (“GB”) in close proximity to the north and south of the Site (**Plan A-2**). Majority of the Site was observed to be densely vegetated in 2017. However, based on aerial photo of 2018 (**Plan A-3**) and her recent site record, the Site had been extensively formed and hard paved, with total removal of existing vegetation within and surrounding the Site. Adverse landscape impact has taken place prior to planning approval;
- (c) although the proposed development would not cause further adverse landscape impact on the surrounding area, the proposed use is considered incompatible with the landscape character of the area. No similar application had previously been approved by the Board within the same “REC” zone. The proposed development, if approved, would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment; and
- (d) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition should the Board approve the application, as the effect on enhancing the quality of public realm is not apparent.

Agriculture

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

- she has no comment on the application from nature conservation point of view as the Site is largely paved and disturbed.

Drainage

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition to request the applicant to submit and implement a drainage proposal for the Site is recommended to ensure that the proposed development will not cause adverse drainage impact to the adjacent area; and

- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

- 9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) there is no record of approval by the Building Authority (BA) for the existing buildings/ structures existing at the Site and BD is not in a position to offer comments on their suitability for the proposed use; and
 - (b) there is also no record of submission of the proposed building/ structure to the BA for approval. For any new proposed buildings, his advisory comments under BO are at **Appendix III**.

Fire Safety

- 9.1.8 Comments of the Director of Fire Services (D of FS):
- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to satisfaction of his department;
 - (b) the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and the good practice guidelines for open storage should be adhered to;
 - (c) having considered the nature of open storage, an approval condition on the provision of fire extinguisher(s) to the satisfaction of his department is recommended. To address the approval condition regarding the provision of fire extinguisher, the applicant is advised to submit a valid fire certificate (FS 251) to his office for approval; and
 - (d) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

- 9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
- (a) he has no objection to the application; and
 - (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within

the private lots to WSD's standards.

Project Interface

9.1.10 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) based on the information submitted, the Site would encroach onto the project limit of the PWP Item No. 6584TH "Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang" undertaken by his department;
- (b) however, having considered the temporary nature of the proposed development and the latest implementation programme of the road widening project, he has no objection to the application; and
- (c) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

District Officer's Comments

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee, the Resident Representative (RR) of Tsung Yuen Ha and the indigenous Inhabitant Representative (IIR) of Heung Yuen Wai object to the application mainly on the grounds that the narrow Lin Ma Hang Road is not suitable for heavy vehicles and it could not cope with the traffic generated by the proposed development; and
- (b) the former and current North District Council members of the subject constituency, the RR of Heung Yuen Wai and IIR of Tsung Yuen Ha have no comment on the application.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Division Commander (Ta Kwu Ling), Hong Kong Police Force (DVC TKLDIV, HKPF).

10. Public Comments Received During Statutory Publication Period

On 29.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received (**Appendix II**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application and a former North District Council member supports the application. The remaining four comments from WWF-HK, Green Sense, a villager from Lin Ma Hang Village

and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “REC” zone; it is a ‘destroy first, apply later’ case; the Site is in the vicinity of the proposed Robin Nest’s Country Park in which the nearby areas should remain the relevant “GB” and “REC” zonings instead of turning into brownfield uses; the proposed development would have adverse traffic, environmental and ecological impacts to the surrounding area; the Site should not involve Government land; and the proposed development would set an undesirable precedent for similar uses in the surrounding.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary warehouse and open storage of containers in an area zoned “REC” on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “REC” zone which is intended primarily for low-density 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 low-density recreational developments may be permitted subject to planning permission. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of the “REC” zone, even on a temporary basis.
- 11.2 The Site is situated in an area of rural landscape character comprising clusters of trees, temporary structures, and densely vegetated woodland. The Site had been extensively formed and hard paved, with total removal of existing vegetation within and surrounding the Site. Adverse landscape impact has taken place prior to planning approval. CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective that although the proposed development would not cause further adverse landscape impact on the surrounding area, the proposed use is considered incompatible with the landscape character of the area. The proposed development, if approved, would set an undesirable precedent of landscape character alteration, and would encourage more similar developments in the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment.
- 11.3 C for T does not support the application as the applicant has not provided information on the estimated traffic flow, justifications for the proposed parking/ loading and unloading spaces, relevant satisfactory management/ control measures, traffic arrangement and vehicle manoeuvring within the Site and provision and management of pedestrian facilities. As such, the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding area. DEP does not support the application as the temporary development is expected to generate traffic of heavy vehicles and there are domestic structures in the vicinity of the Site with the closest one located about 51 m to the southwest of the Site (**Plan A-2**). The applicant has not submitted any information to demonstrate that the proposed development would not cause adverse environmental impacts on surrounding areas. CHE/NTE of HyD advises that the Site would encroach onto the project limit of the PWP Item No. 6584TH “Widening of Eastern Section of Lin Ma Hang Road between Tsung Yuen Ha and Lin Ma Hang”. However, in view of the temporary nature of the application, he has no objection to the application. Other relevant Government departments consulted, including DAFC, D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on / no objection to the application.

11.4 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.11 above, the relevant Government departments' comments and the planning assessment above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.11 above, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "Recreation" zone, which is intended primarily for low-density 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 low-density recreational developments may be permitted subject to planning permission. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate in the submission that the proposed development would not cause adverse traffic impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the same "Recreation" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 17.1.2023. 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. from Mondays to Sundays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) the submission of 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 17.7.2020;
- (e) in relation to (d) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage

Services or of the Town Planning Board by 17.10.2020;

- (f) 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 28.2.2020;
- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 17.7.2019;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 17.10.2020;
- (i) the submission of traffic impact assessment within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.7.2019;
- (j) in relation to (i) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.10.2020;
- (k) if any of the above planning conditions (a), (b) or (c) 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
- (l) if any of the above planning conditions (d), (e), (f), (g), (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.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application Form with Attachments received on 22.11.2019
Appendix Ia	Further Information received on 6.1.2020
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**