

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/370

- Applicant** : Ming Fai Industrial (HK) Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 2069 S.A (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 690 m²
- Lease** : Block Government Lease (Demised for Agricultural Use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Recreation” (“REC”) (about 75%) and “Coastal Protection Area” (“CPA”) (about 25%)
- Application** : Proposed Temporary Shop and Services (Selling of Radio Controlled Cars and Accessories) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (selling of radio controlled cars and accessories) for a period of 3 years (**Plan A-1**). Majority part of the Site (about 75%) falls within the “REC” zone while the remaining portion (about 25%) falls within the “CPA” zone on the OZP. According to the Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). For the “CPA” portion of the Site, according to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires permission from the Board notwithstanding that the use or development is not provided for in terms of the OZP. North-western portion of the Site is currently covered with weed while south-eastern portion of the Site is currently hard-paved and vacant with a canopy structure (**Plans A-3, A-4a to A-4c**).
- 1.2 The Site is not involved in any previous planning application. The Site is accessible via a local track leading from Deep Bay Road and the ingress/egress is located at the south-western part of the Site (**Drawings A-2 and A-3, Plans A-2 and A-3**). As shown on **Drawing A-3** and indicated in the submission, there will be one temporary one-storey structure (with building height of not more than 7 m and a total floor area of about 335 m²) for shop and services (selling of radio controlled

cars and accessories) use. The Site will include 2 private car parking spaces and 1 loading/unloading bay for light goods vehicle and the operation hours of the Site are from 9 a.m. to 7 p.m. every day. According to the applicant, the existing weed in the north-western portion of the Site (i.e. in the “CPA” zone) (**Plan A-4b**) will be removed and the proposed parking/manoeuvring area in this portion of land will be surfaced by grass paving. The proposed vehicular access plans, layout plan and drainage plan are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form received on 10.8.2020 (**Appendix I**)
- (b) Further Information received on 18.9.2020 clarifying the (**Appendix Ia**)
grass paving on the parking area

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development is a shop which is intended to sell radio controlled cars and accessories to the clients who play radio controlled cars at the adjoining radio controlled car circuit, which is an as-of-right use in the “REC” zone.
- (b) The applicant is the owner of the Site and he intends to use the Site as a supplementary use to his adjoining radio controlled car circuit in the “REC” zone.
- (c) The proposed development is a temporary use for a period of 3 years which would not jeopardize the long-term planning intentions of the current zonings.
- (d) The northern part of the Site falling within the “CPA” zone would be reserved for parking of vehicle, loading/unloading bay and manoeuvring of vehicle. No site formation and hard paving is proposed within the “CPA” zone. The existing weed in this portion of land will be removed and surfaced by grass paving.
- (e) The proposed development is not incompatible with the surrounding environment including open storage yards and warehouses.
- (f) There is insignificant environmental and noise impact as the proposed development is static and housed within an enclosed structure. The drainage impact is also insignificant as proven in the submitted drainage proposal.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

The Site does not involve any previous planning application.

6. Similar Applications

Within the same “REC” zone, there are 2 similar applications (No. A/YL-LFS/307 and 330) for proposed temporary shop and services (retail of family goods) with ancillary office. Both of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 9.2.2018 and 4.1.2019 respectively for a period of 3 years on the considerations that approval of the applications on temporary basis would not frustrate the planning intention of the “REC” zone, the developments were not incompatible with the land uses in the surrounding area, there was no adverse comment from the concerned Government departments and/or planning approval was in line with the Committee’s previous decision. However, Application No. A/YL-LFS/307 was revoked on 9.5.2020 due to non-compliance with approval conditions regarding the submission and implementation of drainage proposal. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4b)

7.1 The Site is:

- (a) currently partly covered with weed and partly hard-paved, and vacant with a canopy structure; and
- (b) accessible via a local track leading from Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north-east are vacant land, open storage yards for recycling materials, containers and trailers which are suspected unauthorized developments (UD). To its further north, north-east and north-west is the “CPA” zone with a residential dwelling (being about 75.7m away), graves and vacant land;
- (b) to its west is the “CPA” zone which are scrubland and unused land;
- (c) to its immediate south-east is a warehouse. To its further east is an open storage yard for recycling materials which is a suspected UD; and
- (d) to its south-west are a radio controlled car circuit and vacant land and an open storage yard for construction machinery which is a suspected UD. To

its further south are vacant land, a temporary warehouse for storage of animal feed with a valid planning permission and a warehouse of animal feed tolerated under the Town Planning Ordinance.

8. Planning Intentions

- 8.1 The Site straddles over “REC” and “CPA” zones on the OZP. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.
- 8.2 The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):
- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) Should planning approval be given to the planning application, the lot owner(s) of the lot(s) will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

9.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) The development would not involve operation of heavy vehicles nor dusty operations. Therefore, he has no adverse comment on the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (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' (COP).

Nature Conservation

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

She notes that majority of the Site falls within the “REC” zone while only a minor portion falls within the “CPA” zone. Considering the Site is hard-paved and disturbed, she has no comment on the application from nature conservation point of view.

Landscape

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

- (a) According to the site photos in August 2020, the Site is generally concrete paved and covered by the proposed temporary structure. No tree or other significant vegetation is observed within the site boundary. The Site is located in an area of rural coastal plains character predominated by tree clusters and woodlands with a substantial number of open storage yards and warehouses found in the proximity. The proposed development is considered not entirely compatible to the landscape character of the surrounding area.
- (b) With reference to the aerial photos since 2014, site clearance and modification works had taken place within the Site over the years. In 2019, the hard paving was removed and the Site was reinstated with hydroseeding. However, when comparing the aerial photo of 2019 and the site photos taken in August 2020, it is noted the existing trees and hydroseeded area have been removed, concrete paving and erection of temporary structure have been carried out within the Site. Significant adverse landscape impact has taken place. There is a concern that approval of the application would encourage similar developments to the area to undertake vegetation clearance and site modifications prior to obtaining planning permission. The cumulative impact of which would result in further degradation of the landscape quality and the landscape resources of the surrounding environment, and undermine the planning intention of the “REC” and “CPA” zones. In view of the above, she has reservation on the application from landscape planning perspective.
- (c) In view that the Site is not facing any prominent public frontage, a landscape condition is considered not required should the application be approved by the Board.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under the application.

- (b) 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.
- (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) 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.
- (d) 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.
- (e) 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 plan submission stage.

Drainage

9.1.8 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 point of view, but he has some technical comments on the drainage proposal. Detailed comments are available at **Appendix IV**.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to his satisfaction.

Geotechnical

9.1.9 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no comment on the application.
- (b) The applicant is reminded to submit the proposed building works to BD for approval under the provisions of the BO.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DLO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Principal Project Coordinator/Special Duty, DSD (PPC/SD, DSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 18.8.2020, the application was published for public inspection. During the statutory public inspection period, 5 public comments were received from World Wide Fund for Nature Hong Kong, Kadoorie Farm and Botanic Garden and individuals (**Appendices III-1 to III-5**) objecting to the application and their reasons are summarized below:

- (a) the proposed use is not in line with the planning intention of the "CPA" zone;
- (b) the proposed use which is commercial in nature will generate adverse landscape, noise and environmental impacts to the surrounding area and local wildlife;

- (c) the Board should not encourage “destroy first, build later” attitude; and
- (d) there should not be any development within the “CPA” zone. Approval of the application would set an undesirable precedent for similar applications within the same “CPA” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (selling of radio controlled cars and accessories) which falls within an area mainly zoned “REC” (about 75% or about 518 m²) with a small portion zoned “CPA” (about 25% or about 172 m²) on the OZP. The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission. According to the applicant, the proposed development can provide supplementary service to sell radio controlled cars and accessories to the customers of the adjoining radio controlled car circuit (**Plan A-2**) which is a Column 1 use (‘Place of Recreation, Sports or Culture’) and always permitted within the “REC” zone. Therefore, the proposed development which is in support of the adjoining recreational use is not in conflict with the planning intention of the “REC” zone.
- 11.2 The “CPA” zone intends to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. Although the proposed use is not line with the planning intention of the “CPA” zone and CTP/UD&L of PlanD has reservation on the application in view of vegetation clearance and site modification prior to obtaining planning permission and cumulative landscape impact on the surrounding environment, it is noted that only a small portion of the Site (about 25% or about 172 m²) falls within the “CPA” zone and the applicant committed that no site formation works will be carried out within the “CPA” zone and the proposed parking/manoeuvring area in this portion of land will be surfaced by grass paving. In this regard, DAFC and DEP have no adverse comment on the application from nature conservation and environmental perspectives. As such, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “CPA” zone.
- 11.3 The Site is located in an area predominantly used for recreational use, warehouses and temporary structures (**Plan A-2**). Therefore, the proposed use is considered not incompatible with the surrounding uses.
- 11.4 Other concerned Government departments, including C for T, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, drainage and fire safety impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding uses, and to address the technical requirements of the concerned Government departments, relevant approval conditions are

recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 11.5 There are two similar approved applications for temporary shop and services use within the same “REC” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.6 There are 5 public comments received objecting to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.5 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary shop and services for selling of radio controlled cars and accessories can be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **9.10.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private car and light goods vehicle are allowed to enter/exit the Site during the planning approval period;
- (c) no vehicle is allowed to queue back or reverse onto/from the public road at any time during the planning approval period;
- (d) no site formation works/hard paving within the “Coastal Protection Area” zone, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) paving the parking/manoeuvring area with grass within the “Coastal Protection Area” zone before operation of the proposed use, as proposed by the applicant;
- (f) the submission of a revised 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 **9.4.2021**;

- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.7.2021**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.4.2021**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.7.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) is not complied with during the 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 (f), (g), (i) or (j) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public. It is also not in line with the planning intention of the "CPA" zone which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment with a minimum of built development. There is no strong planning justification in the submission for a departure from such planning intentions, even on a temporary basis.

13. Decision Sought

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

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

14. Attachments

Appendix I	Application form received on 10.8.2020
Appendix Ia	Further Information received on 18.9.2020 clarifying the grass paving on the parking area
Appendix II	Similar Applications within the same “REC” Zone
Appendices III-1 to III-5	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Location with Vehicular Access Plan
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**