

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/375

- Applicant** : Mr. NG Sze Kwan represented by R-riches Property Consultants Limited
- Site** : Lots 1766 RP and 1767 RP (Part) in D.D. 105 and adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
- Site Area** : About 823m² (including about 315m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan No. A/YL-NTM/12
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Proposed Temporary Shop and Services (Metalware Shop) 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 (metalware shop) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(C)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes for the “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by storage structures (**Plan A-2**), and is not the subject of any previous application.
- 1.2 According to the information submitted by applicant, the proposed shop and services use is for selling of metalware goods with ancillary storage of the goods. As shown on the layout plan at **Drawing A-1** and **Plans A-1 & A-2**, the Site is accessible to San Tam Road via a local access road. Two ingresses/egresses of 4.2m and 7.2m wide for private car and light good vehicles respectively will be provided. The proposed development parameters are summarized below:

Site Area	About 823 m ²
No. of Structure(s)	13 (including 7 metalware goods shops, 3 storages)

	of metalware goods, caretaker's office, site office and a canopy)
Total floor area	About 389 m ²
Height of structures	2.6 - 5.6 m (1-2 storey(s))
No. of Parking Space:	1 for private car (2.5m x 5m)
No. of Loading/Unloading Bays	2 for Light Good Vehicles (LGVs) (3.5m x 7m)
Operation Hours	10:00 a.m. to 4:00 p.m. (Mondays to Sundays including Public Holiday)

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

- (a) Application form received on 12.10.2018 **(Appendix I)**
- (b) Further Information (FI) dated 16.10.2018 clarifying the total floor area of the proposed development **(Appendix Ia)**
- (c) FI dated 8.11.2018 clarifying the vehicular access and location of the existing structure with revised layout plan **(Appendix Ib)**

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** and FI at **Appendix Ib**. They can be summarized as follows:

- (a) The proposed shop and services use is for selling and storing of metalware. The development will involve 13 temporary structures including metalware shops, storage for metalware, guard kiosk, office and canopy.
- (b) The Site is currently vacant and fenced. The proposed use is compatible with "R(C)" land use in the vicinity and no filling or excavation works are involved so as to minimize adverse impact on the surroundings.
- (c) The Site will provide 1 parking space for private vehicle and 2 loading/unloading spaces for LGVs and the anticipated trip generation is of low level. Adverse traffic impact on the surroundings are not expected.
- (d) Sufficient manoeuvring space for vehicle will be provided on site to avoid queuing back of vehicles outside the Site. Only private cars and LGVs will be allowed to enter the Site. Staff can commute to the Site using public transport along San Tam Road. The parking space at the Site is reserved for operators, and no visitors' parking space will be provided.

- (e) The applicant will submit fire service installations (FSIs) proposal and sewage treatment proposal to comply with requirements specified by the respective departments.

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

The applicant is not a “current land owner” of the private lots within the Site but has complied with the requirements set out in the Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The remaining of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

4. Background

The storage use on the Site would be subject to planning enforcement action.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

6.1 There is a similar application for temporary shop and services (sales of building materials) within the same “R(C)” zone on the OZP (Application No. A/YL-NTM/369). The application was approved by the Rural and New Town Planning Committee (the Committee) on 6.7.2018 for a period of 3 years on the consideration that the proposed development is not incompatible with the surrounding land uses and would not frustrate the long term planning intention of the “R(C)” zone, and concerned Government departments have no objection to or no adverse comment on the application.

6.2 Details of the similar application are summarized at **Appendix II**. Its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) occupied by storage structures; and
- (b) accessible at its northern boundary through a local access road from San Tam Road.

7.2 The surrounding land uses are mainly storage yards, residential dwellings and unused land. Some of the storage uses are suspected unauthorized developments (UDs) subject to enforcement action:

- (a) to its north are vacant GL and a local access road; to its northwest across the access road is unused land in “Green Belt” and “Open Storage” zones; to its northwest is a works area for the proposed cycle track by Civil Engineering and Development Department;
- (b) to its southwest are storage structures, open storage of recycling materials and residential dwellings;
- (c) to its south are unused land and residential dwellings; and
- (d) to its southeast are storage structures, open storage of vehicles and residential dwellings.

8. Planning Intention

The planning intention of the “R(C)” zone is primarily low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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

- (a) The Site comprises Old Schedule Agricultural Lots 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) No permission is given for occupation of GL of about 315m² in area (subject to verification) included in the Site. The fact that the act of occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible from San Tam Road through GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.

- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which are not managed by Transport Department (TD). The land status of the local access road should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following conditions should be incorporated:
 - (i) only private car and LGVs are allowed to access the Site; and
 - (ii) no vehicle is allowed to queue back to or reserve onto/from the Site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from San Tam Road should be commented by TD.
- (b) If the access arrangement is agreed by TD, the applicant should construct a run in/out at the access point at the public road branched off from San Tam Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.

- (c) HyD does not and will not maintain any access connecting the Site and the public road branched off from San Tam Road. The applicant should be responsible for his own access arrangement.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 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 as the Site neither falls within any administrative route protection boundary, gazetted railway schemes boundary, nor railway protection boundary of heavy rail systems.

Environment

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

According to the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he has no comment on the application.

Nature Conservation

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

He has no strong view on the application from nature conservation perspective as the Site is located within “R(C)” zone which has been paved.

Fire Safety

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

- (a) He has no objection in principle to the application subject to 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; and

- (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) 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.

Building Matters

9.1.8 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 House) are erected on leased land without the approval of the Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings 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 the BD to effect their removal in accordance with BD's 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 BO.
- (c) Before any new building works (including containers/ open sheds as temporary building and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) 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 respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Drainage

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

- (a) He has no objection in principle to the application from the drainage operation and maintenance point of view.

- (b) Should the application be approved, the applicant should be advised on the following.
- (i) The applicant shall submit a drainage submission to 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 level justifying waterflow, etc.) with supporting design calculations & charts should be included. For preparation of the drainage proposal, the Guideline on preparation of the drainage proposal is available on DSD homepage at https://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf for reference. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
 - (ii) After completion of the drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
 - (iii) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
 - (iv) No public sewerage maintained by his office is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
 - (v) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
 - (vi) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the Site boundary in order to ensure the unobstructed discharge from the Site in future.
 - (vii) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

Landscaping

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

- (a) Based on the aerial photo of 2018, the surrounding area comprises of rural landscape setting with many tree groups, some temporary structures and car parking areas. The proposed use is considered not entirely compatible with the landscape setting in proximity. It is noted from the aerial photos of 2005-2009 that the vegetation within the Site has been cleared and gradually hard paved with erection of temporary structure(s).
- (b) According to his site visit conducted on 9.11.2018, there were temporary structures within the Site which was fenced off and hard paved. The proposed use was in operation. No vegetation was found within the Site. Landscape impact arising from the temporary use under application is not expected.
- (c) Should the Board approve the application, the following condition is suggested:

Submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Others

9.1.11 Comments of the Commissioner of Police (C of P):

He has no objection to the application provided that only private car and LGVs will access the Site.

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

- (a) Part of the Site falls within GL. It is presumed that the applicant would apply to LandsD for the use of GL. The feasibility study for the proposed columbarium development completed in 2014 recommended road widening of an existing road, and part of the GL covered by the application would be required for the proposed road widening. The applicant should, at his own cost, remove the temporary structures on the GL concerned and hand back the GL to the Government for the proposed road widening works upon request from the Government;
- (b) If any Food and Environmental Hygiene Department's (FEHD) facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide

sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD;

- (c) Proper licence / permit issued by this Department is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction;
- (d) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

9.1.13 Comments of District Officer (Yuen Long) (DO(YL)):

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

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

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

10. Public Comments Received During Statutory Publication Period

On 19.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 9.11.2018, no public comment has been received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (metalware shop) for a period of 3 years at the Site. The Site falls within "R(C)" zone which is intended primarily for low-rise, low-density residential developments where commercial

uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed use for shop and services (metalware shop) is not in line with the planning intention of the “R(C)” zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal for the Site.

- 11.2 The proposed development is not incompatible with the surrounding land uses, which comprise mainly residential dwellings, agricultural land, storage yards and unused land. The Site is located at the fringe of the “R(C)” zone with access to San Tam Road through a local access road. The proposed temporary shop and service use could serve nearby residents.
- 11.3 Concerned government departments, including C for T, DEP, CHE/NTW of HyD, CE/MN of DSD, D of FS and CTP/UD&L, PlanD have no objection to or no adverse comment on environmental, traffic, drainage, fire safety and landscape aspects respectively. Their technical concerns could be addressed by approval conditions as recommended in paragraph 12.2 (e) to (j) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and type of vehicles, and maintenance of existing paving and boundary fencing are recommended in paragraphs 12.2 (a) to (d) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 11.4 There is a similar application for temporary shop and services use (sales of building materials) within the same “R(C)” zone which was approved based on similar considerations that the proposed development was not incompatible with the surrounding land uses and would not frustrate the long term planning intention of the “R(C)” zone. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 There is no public comment received during the statutory public inspection period.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department has no objection to the application.
- 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 7.12.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 4:00p.m. and 10:00a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) only private cars and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance are allowed to access the Site at any time 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 paving and boundary fencing on the Site at all times during the planning approval period;
- (e) 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 Board by 7.6.2019;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Board by 7.9.2019;
- (g) the submission of 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 Board by 7.6.2019;
- (h) in relation to (g) above, the implementation of 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 Board by 7.9.2019;
- (i) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.6.2019;
- (j) in relation to (i) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.9.2019;
- (k) if any of the above planning condition (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (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 attached at **Appendix III**.

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

the planning intention of the "R(C)" zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The development is not in line with the planning intention of the "R(C)" zone. No strong planning justification has been given in the submission for a departure from the planning intention, 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 12.10.2018
Appendix Ia	FI dated 16.10.2018
Appendix Ib	FI dated 8.11.2018
Appendix II	Similar s.16 application within the same "R(C)" zone on Ngau Tam Mei Outline Zoning Plan No. S/YL-NTM/12
Appendix III	Recommended Advisory Clauses
Drawings A-1	Layout Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos