

RNTPC Paper No. A/YL-MP/269
For Consideration by
the Rural and New Town
Planning Committee
on 4.5.2018

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-MP/269

- Applicant** : Mr. Fung Hok Lan represented by R-riches Property Consultants Limited
- Site** : Lot 20 RP in D.D. 101, Mai Po, Yuen Long
- Site Area** : About 726.1m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zoning** : “Open Space” (“O”)
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Metal Hardware Shop and Household Item Retail Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (metal hardware shop and household item retail store) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site is currently used for the applied use under approved planning application No. A/YL-MP/244 which is valid until 5.6.2018.
- 1.2 The Site is the subject of a previous application (No. A/YL-MP/244) (**Plan A-1**) submitted by the current applicant for the same temporary shop and services (metal hardware shop and household item retail store) use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 5.6.2015 for a period of three years. All approval conditions including those in relation to the submission and implementation of fire service installations proposal, drainage proposal and landscape and tree preservation proposal, and the provision of boundary fencing on the site, had been complied with.

- 1.3 As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from the northeast via a local track off Castle Peak Road – Mai Po. The Site has been paved and fenced off. The applicant has submitted a landscape plan and a drainage proposal in support of the application (**Drawings A-2 and A-3**).
- 1.4 According to the applicant, the development parameters of the current application are same as those approved under Application No. A/YL-MP/244 except on operation hours. A comparison of major development parameters of the last application and current application is summarized below.

Major Development Parameters	Application No. A/YL-MP/244	Application No. A/YL-MP/269 (current application)	Changes
Applied Use	Temporary shop and services (metal hardware shop and household item retail store) for a period of 3 years	Renewal of planning approval for temporary shop and services (metal hardware shop and household item retail store) for a period of 3 years	No change
Site Area	About 726.1m ²	About 726.1m ²	No change
Structures	1 structure of 2-storey (6.5m high) with floor area of 303.92m ² [@]	1 structure of 2-storey (6.5m high) with floor area of 303.92m ²	No change
No. of Parking Spaces	4	4	No change
Operation Hours	9:00a.m. to 6:00p.m. Monday to Saturday No operation on Sunday and public holidays	9:00 a.m. to 6:00 p.m. Monday to Friday 9:00 a.m. to 5:00 p.m. on Saturday No operation on Sunday and public holidays	Different operating hours on Saturday

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

- (a) Application form received on 16.3.2018 **(Appendix I)**
- (b) Supplementary information received on 21.3.2018 **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of Application Form at **Appendix I**. They can be summarized as follows:

- (a) The applied use is compatible with the Site's surroundings.

[@] The applicant stated that there is a typo error in the floor area of the structure under Application No. A/YL-MP/244. Instead of 151.96m² stated, it should be 303.92m².

- (b) The applied use did not cause adverse traffic and environmental impacts during the planning approval period for Application No. A/YL-MP/244. No workshop and open storage activity is allowed on Site.
- (c) The site area and building height of the current application is identical to those of the previous Application No. A/YL-MP/244.

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. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)

According to the Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B), the criteria for assessing applications for renewal of planning approval are as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/ land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planning permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits
- (d) whether the approval period sought is reasonable;
- (e) any other relevant considerations; and
- (f) the approval period for renewal should not be longer than the original validity period of the temporary approval.

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

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (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; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. **Background**

The Site is not a subject of any active enforcement action.

6. **Previous Application**

The Site is the subject of a previous application (No. A/YL-MP/244) for temporary shop and services (metal hardware shop and household item retail store) which was approved by the Committee for a period of 3 years until 5.6.2018 mainly on the consideration that the proposed development is not incompatible with the surrounding land uses and concerned Government departments have no objection to or no adverse comment on the application. All the approval conditions under the application had been complied with.

7. **Similar Applications**

- 7.1 Since 2008, there are 17 applications for similar uses within the same “O” zone on the OZP. All the applications were approved by the Committee mainly on the consideration that the developments were not incompatible with the surrounding land uses and concerned Government departments have no objection to or no adverse comment on the application.
- 7.2 Details of these 17 similar applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from the northeast via a local track off Castle Peak Road – Mai Po;
- (b) located within the WBA of Deep Bay; and
- (c) is currently used for the applied use with valid planning permission.

- 8.2 The surrounding land uses are a mix of residential development (Royal Palms), some domestic dwellings, storage yards, real estate agency, restaurant and vacant/unused land. Some storage yards are suspected unauthorized developments subject to enforcement action by the Planning Authority.
- (a) to the north are an area for storage, vacant and unused lands, and residential dwellings;
 - (b) to the east are Castle Peak Road – Mai Po and San Tin Highway;
 - (c) to the west are unused land and a residential development namely Royal Palms within the “Residential (Group C)” zone; and
 - (d) to the south are unused land and an open storage of converted containers and construction material. To the further south are a temporary sales office (for real estate and furniture) and furniture showrooms under approved Application No. A/YL-MP/249 and a temporary restaurant under approved Application No. A/YL-MP/265.

9. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease under which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private land of Lot No. 20 RP in D.D. 101 is covered by Short Term Waiver (STW) No. 4259 to permit structures for the purpose of “Temporary Shop and Services (Metal Hardware Shop and Household Item Retail Store)”.
- (c) The Site is accessible to Castle Peak Road – Mai Po through Government Land (GL) and private land. 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 planning application, the STW holder will need to apply to his office for modification of the STW conditions if there is any irregularity on site. Such application 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

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

He has no objection to the renewal of the application from traffic engineering point of view.

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

- (a) The proposed access arrangement of the Site should be commented and approved by TD;
- (b) HyD is/shall not be responsible for the maintenance of the track road connecting the Site and Castle Peak Road – Mai Po; and
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazette railway schemes, nor railway protection boundary of heavy rail systems. As such, he has no comment on the subject from railway development viewpoint.

Environment

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

- (a) Provided it is strictly used as a metal hardware shop and household items retail shop, he has no adverse comments from pollution point of view. The applicant is reminded that all waste water from the Site shall comply with the requirements stipulated in the Water Pollution Control Ordinance.

- (b) There was no environmental complaint related to the Site in the past 3 years.

Nature Conservation

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

He notes that the application is for continuation of a previously approved use and the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.

Landscape

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

- (a) He has no objection to the application from landscape perspective.
- (b) The Site falls within an area zoned "O" in Mai Po, Yuen Long. The Site was involved in a previous application for the same use to which he had no objection (A/YL-MP/244) from landscape planning perspective.
- (c) Compared with the aerial photo taken in 2015 and 2017, there is no significant change to the surrounding landscape since the application last approved. Further significant impact on existing landscape arising from the proposed use is not anticipated.
- (d) Based on their site inspection photos taken on 27.3.2018, it is observed that 2 trees planted under the last approved application (A/YL-MP/244) were dead. Replacement tree planting should be provided on site as compensation. Should the application be approved by the Board, the following condition is proposed.

the submission and implementation of tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Fire Safety

10.1.8 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 the satisfaction of the D of FS.
- (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. In addition, 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) However, 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

10.1.9 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 structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
 - (ii) Before any new building works (including containers as temporary buildings are to be carried out on the Site, the prior approval and consent of the BA should be obtained otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on leased land, enforcement action may be taken by the BA 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 the BO.
 - (iv) In connection with (ii) above, 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.

- (v) 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 building plan 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.
- (b) He notes that the applicant implemented the drainage facilities on site under previous planning Application No. A/YL-MP/244 and the drainage implementation works were considered satisfactory. Under current application, the applicant should provide DSD with a set of latest record photographs showing the completed drainage works (including the internal condition of the drains) with the corresponding photograph with locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to a comprehensive set of photographs.
- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) The applicant is reminded that the proposed drainage proposal / works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (e) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure the unobstructed discharge from the Site in future.
- (g) 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 works on site under proper maintenance at all times.

Open Space Provision

10.1.11 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) The Site is zoned “O” on the OZP. It is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
- (b) Since the application involves private lot only, he has no in-principle objection to the application.

Others

10.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

- (a) If any Food and Environmental Hygiene Department (FEHD)’s facility is affected by the development, FEHD's prior consent must be obtained. Re provisioning 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 re provisioned facilities to FEHD.
- (b) 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

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

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

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P); and
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

11. Public Comments Received during Statutory Publication Period

On 23.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.4.2018, one public comment was received from a Yuen Long District Councillor, raising concern that there is no need for another hardware store in the neighbourhood (**Appendix III**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning approval for temporary shop and services (metal hardware shop and household item retail store) for a period of 3 years within “O” zone. The planning intention of the “O” zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although the applied use is not in line with the planning intention of the “O” 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 “O” zone as there is no programme for implementing the proposed open space at present, as advised by DLCS.
- 12.2 The proposed development is considered not incompatible with the surrounding land uses comprising residential development (i.e. Royal Palms), temporary real estate agency, temporary restaurant and areas for storage. The proposed temporary metal hardware shop and household item retail store could serve the needs of the nearby residents.
- 12.3 The current application is for the renewal of the planning permission under Application No. A/YL-MP/244 for the same use for a further period of 3 years. The renewal is in line with TPB PG-No. 34B in that since the last approval, there has been no major change in planning circumstances; concerned Government departments have no objection to or no adverse comment on the application, there is no environmental complaint against the Site in the past 3 years, adverse planning implications arising from the renewal of the planning approval are not expected; and all the approval conditions under the previous application have been complied with.
- 12.4 The Site falls within the WBA of the TPB Guidelines PG-No. 12C and the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view as the application is for

continuation of a previously approved use and the Site is paved and disturbed.

- 12.5 Other concerned Government departments, including DEP, CE/MN of DSD, C for T, D of FS, and CTP/UD&L of PlanD, have no objection to or no adverse comment on environmental, drainage, traffic, fire safety and landscape aspects. Their technical concerns could be addressed by approval conditions as recommended in paragraph 13.2 (f) to (j) below. To minimise potential environmental impacts on the surrounding area, approval conditions restricting the operation hours, activity on-site and requiring maintenance of paving, boundary fencing and existing drainage facilities are recommended in paragraph 13.2 (a) to (e) 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 will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 12.6 Since 2008, the Committee has approved a total of 17 applications for similar shop and services use within the same “O” zone based on similar considerations that that the developments were not incompatible with the surrounding land uses and concerned Government departments have no objection to or no adverse comment on the application. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 There is one objecting public comment received during the statutory publication period, raising concerns that there is no need for another metal hardware retail store in the neighbourhood. The assessment in paragraph 12.2 above is relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary shop and services (metal hardware shop and household item retail store) could be tolerated for a further period of 3 years.
- 13.2 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 from 6.6.2018 to 5.6.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation is allowed on the site during the planning approval period, as proposed by the applicant, between 6:00p.m. and 9:00 a.m. from Monday to Friday and between 5:00 p.m. and 9:00 a.m. on Saturday;
- (b) no operation is allowed on the site during the planning approval period, as proposed by the applicant, on Sunday and public holidays;

- (c) no cutting, dismantling, cleansing, repairing, compaction, workshop and open storage activity is allowed on 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 maintenance of existing drainage facilities on the site at all times during the planning approval period;
- (f) the submission of tree preservation proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.12.2018;
- (g) in relation to (f) above, the implementation tree preservation proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.3.2019;
- (h) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.12.2018;
- (i) in relation to (h) above, the implementation of fire service installations within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.3.2019;
- (j) the submission of photographic records of the existing drainage facilities within **3** months from the date of commencement of the renewed planning approval to the satisfaction of Director of Drainage Services or of the Town Planning Board by 6.9.2018;
- (k) if any of the above planning conditions (a), (b), (c), (d), or (e) 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 (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; and
- (m) upon the 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.

[Except for conditions (a), (b), (d), (e) and (j) which are amended to accord with

the latest circumstances/comments of the relevant departments, all the other conditions are same as those imposed under the previous application No. A/YL-MP/244.]

Advisory clauses

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

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

the temporary development is not in line with the planning intention of the "O" zone. There is no strong justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 16.3.2018
Appendix Ia	Supplementary Information received on 21.3.2018
Appendix II	Similar s.16 applications within the same "O" Zone on the Approved Mai Po and Fairview Park Outline Zoning Plan No. S/YL-MP/6
Appendix III	Public comment received during the publication period
Appendix IV	Recommended advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Drainage Proposal
Plan A-1	Location Plan and Similar Applications

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2018**