

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/369

- Applicant** : Melody Gain Limited represented by Everbright Surveyors Limited.
- Site** : Lots 1400 and 1401 in D.D. 105, Ngau Tam Mei, Yuen Long
- Site Area** : About 1,780 m²
- 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** : Temporary Shop and Services (Sales of Building Materials) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (sales of building materials) for a period of 3 years (**Plan A-1a**). 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 mainly vacant and part of the Site is currently used for open storage of construction material without valid planning permission (**Plan A-2**).
- 1.2 The Site is the subject of two previous applications (No. A/YL-NTM/175 and 227) (**Plan A-1b**) on larger sites for logistics use/container vehicle park and sales centre for new private vehicles and lorries uses which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 17.12.2004 and 5.7.2008 respectively.
- 1.3 According to the information submitted by applicant, the proposed shop and services use is for displaying and selling of building materials for home decoration and mainly serve the contractors of developments in the vicinity. As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible to San Tam Road through adjoining private land to Castle Peak Road (Mai Po

Section). An ingress/egress of 8.5m wide with manoeuvring space of 12 m diameter will be provided. The proposed development parameters are summarized below:

Major Development Parameters	Proposed Shop and Services (Sales of Building Material)
Site Area	About 1,780 m ²
No. of Structure(s)	5 (4 for shop and services and 1 toilet)
Total floor area	About 640.5 m ²
Height of structures	Not exceeding 4 m (1 storey)
No. of Parking Spaces:	2 for private car/light goods vehicle (LGV) (7m x 3.5m)
No. of Loading/Unloading Bays	2 for private car/LGV (7m x 3.5m)
Operation Hours	10:00 a.m. to 7:00 p.m. Monday to Saturday and no operation on Sundays and public holidays

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

- (a) Application form received on 7.5.2018 **(Appendix I)**
- (b) FI received on 5.6.2018 clarifying on the structures on site, materials to be sold and trip generation with revised layout plan *(accepted and exempted from publication and recounting requirements)* **(Appendix Ia)**
- (c) FI received on 7.6.2018 enclosing revised layout plan *(accepted and exempted from publication and recounting requirements)* **(Appendix Ib)**
- (d) FI received on 13.6.2018 clarifying the dimension of structures *(accepted and exempted from publication and recounting requirements)* **(Appendix Ic)**

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 Ia and Ib**. They can be summarized as follows:

- (a) The proposed shop and services for building and/or decoration materials for home renovation will serve the contractors of private developments in the vicinity and is considered not incompatible with the surrounding residential use.
- (b) The development will involve 4 temporary booth-like structures constructed of metal sheets, which are non-fire hazardous, for the display of their products. The products include various types of building materials for home renovation, such as floor/wall tiles, sanitary fittings, bathroom/kitchen fixtures and accessories, etc. They will not be substantial in size and only minimum amount will be kept on site for display purpose.
- (c) The proposed shop will not attract mass public but only building contractors who will access the Site mainly by private cars/LGVs. Due to limited public transportation service to the Site and no direct goods delivery from the Site to the customers, it is estimated there are only 2-5 vehicles trips from/to the Site on hourly basis. The Site will provide 2 parking spaces and 2 loading/unloading bays for private cars/LGVs. No container vehicles and/or heavy goods vehicles will enter into/park on the Site. No adverse traffic impact to the surrounding areas is anticipated. Sufficient manoeuvring space for vehicle will be provided on site to avoid queuing back of vehicles outside the Site.

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**

Part of the Site is involved in an active enforcement case for unauthorized storage use (including deposit of containers) (UD) (**Plan A-2**). Enforcement Notice (EN) has been issued to the registered owners of the concerned lots of the UD. The Site is currently under close monitoring, further enforcement and/or prosecution actions would be taken on the subject site if the EN has not been complied.

5. **Previous Applications**

5.1 The Site is subject of two previous applications (No. A/YL-NTM/175 and 227) covering larger site areas (i.e. 8,000m² and 7,611m² respectively) submitted by different applicants for proposed temporary logistics use and container vehicle park/ temporary sales centre for new private vehicles and lorries (include medium goods vehicles and container tractors) for a period of 3 years respectively. The applications were rejected by the Committee on 17.12.2004 and 5.9.2008 respectively mainly on the consideration that the proposed developments were not in line with the planning intention of the “R(C)” zone, incompatible with the

surrounding rural character; not in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses, as there were adverse comments from Environmental Protection Department (EPD), Transport Department (TD) and Drainage Services Department (DSD) and objecting public comments; the applicants failed to demonstrate it would not have adverse environmental, drainage and traffic impacts on the surrounding area; and the approval of the application would set an undesirable precedent.

5.2 Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**

6. Similar Application

There is no similar application within “R(C)” zone on the OZP.

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

7.1 The Site is:

- (a) mainly vacant and partly used for open storage of construction material without valid planning permission; and
- (b) accessible at its northwestern boundary to San Tam Road through its adjacent private land to Castle Peak Road (Mai Po Section).

7.2 The surrounding areas are intermixed with open storage yards, agricultural land, residential dwellings, unused land and vacant land; some of the open storage yards are suspected unauthorized developments (UDs) subject to enforcement action:

- (a) to its north are unused land and a watercourse; to its northwest across the watercourse is Mai Po Substation falling within “Other Specified Use (Electric Sub-station)” zone ;
- (b) to its west are unused land, a pond, open storage yards and residential dwellings;
- (c) to its south are open storage yards, unused land and residential dwellings; and
- (d) to its east are storage area with a shelter, vacant land, fellow agricultural land, unused land and residential dwellings; to its southeast are open storage yards, cultivated agricultural land, residential dwellings, unused land and vacant land.

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 Town Planning 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) The Site is accessible to San Tam Road through both Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject application, the lot owners will need to apply to his office to permit the structures to be erected or regularize 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

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 is not managed by TD. The applicant should clarify the land status of that local access road with the LandsD and clarify the management and maintenance responsibilities of the local access road with the relevant lands and maintenance authorities accordingly.

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

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 proposed run-in is agreed by TD, the applicant should construct a run in/out at the access point at San Tam Road in accordance with the latest version of Highways Standard Drawings (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 the vehicular access connecting the Site and San Tam Road.
- (d) Adequate drainage measures should be provided to prevent surface water running from the application 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, 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 objection to the application from nature conservation perspective as the Site is located within “R(C)” zone which has been paved for some years. Nevertheless, there are some trees along San Tam road to the north of the Site. Should the application be approved, the

applicant shall be advised to avoid damaging existing tree adjoining the Site during operation.

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 fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; 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 Building Ordinance (BO) and should not be designated for any proposed use under the captioned 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 rain water falling onto or flowing to the Site will be collected, conveyed and discharged. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and inverted levels of pipes/catchpits/outfalls and ground level justifying waterflow, etc.) with supporting design calculations according to the 'Guideline on Preparation of the Drainage Proposal' available at DSD's homepage should be included. Should additional drainage works be required, 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 for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. 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 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) It is noted that the Site is not within a landscape sensitive zoning area and there is no significant landscape resource within the Site.
- (b) According to his site inspection on 18.5.2018, lush tree planting were found next to the Site which formed an efficient screening between the major road and site frontage. As such, landscape condition is not required for the current application.

Others

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

He has no comment in principle subject to no parallel trading/ general merchandise operations (GMO) and illicit refuelling activities involved.

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

- (a) If any FEHD's 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.
- (b) 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.

- (c) 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.

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

He has no particular comment on the application from electricity supply safety aspect. However, in the interest 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 current 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.

District Officer’s Comments

9.1.14 Comments of the District Officer(Yuen Long) (DO(YL)):

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

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 Leisure and Cultural Services (DLCS);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comments Received During Statutory Publication Period

On 15.5.2018, the application was published for public inspection. During the first three

weeks of the statutory public inspection period which ended on 5.6.2018, 6 public comments (**Appendix III**) were received. 5 comments were received from San Tin Rural Committee, Village Representative of Mai Po Tsuen, and 3 local residents supporting the application mainly on grounds that the proposed development would general local job opportunities, optimize the use of vacant land, serve the local residents, and would not have adverse impacts to the surrounding area. One objecting comment is from a private individual stating that the current application was similar to a previously rejected application (No. A/YL-NTM/227) and should be rejected.

11. Planning Considerations and Assessments

- 11.1 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 Town Planning Board. Although the proposed use for shop and services (sales of building materials) 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 is dominated by open storage yards, agricultural land, and intermixed with scattered residential dwellings, and vacant land. The Site is located at fringe of “R(C)” zone with access directly connected to San Tam Road. According to the applicant, the proposed temporary shop and service use could serve the needs of contractors for developments in the vicinity.
- 11.3 Concerned government departments, including C for T, DEP, CHE/NTW of HyD, CE/MN of DSD and D of FS, have no objection to or no adverse comment on environmental, traffic, drainage, and fire safety respectively. Their technical concerns could be addressed by approval conditions as recommended in paragraph 12.2 (d) to (k) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours, type of vehicles to be used and provision of boundary fencing are recommended in paragraphs 12.2 (a), (b), (c) and (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 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 The Site is subject of two previous applications covering larger site areas submitted by different applicants respectively for proposed temporary logistics use and container vehicle park/ temporary sales centre for new private vehicles and lorries (include medium goods vehicles and container tractors), which were rejected by the Committee on 17.12.2004 and 5.9.2008 respectively. Comparing with the previous applications, the current application covers a smaller area for a different use and in different scale of development, and does not involve use of heavy goods/container vehicles.

- 11.5 6 public comments were received during the statutory public inspection period, 5 of which supports the application mainly on grounds that the proposed development would general local job opportunities, optimize the use of vacant land, serve the local residents, and would not have adverse impacts on the surrounding area . One objecting comment stated that the current application was similar to a previously rejected application. The planning assessment above is relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary shop and services (sales of building materials) could 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 6.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 10:00a.m. on Monday to Saturday, as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) only private cars and light goods vehicles not exceeding 5.5 tones as defined in the Road Traffic Ordinance are allowed to park on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reserve onto/from the Site at any time during the planning approval period
- (e) the provision of boundary fencing on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (f) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.1.2019;
- (g) in relation to (f) above, the provision of a run-in within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.4.2019;

- (h) 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 6.1.2019;
- (i) in relation to (h) 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 Town Planning Board by 6.4.2019;
- (j) 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 Town Planning Board by 6.1.2019;
- (k) in relation to (j) 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 Town Planning Board by 6.4.2019;
- (l) 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
- (m) if any of the above planning conditions (e), (f), (g), (h), (i), (j) or (k) 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.
- (n) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

- 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 low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning 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 7.5.2018
Appendix Ia	FI received on 5.6.2018
Appendix Ib	FI received on 7.6.2018
Appendix Ic	FI received on 13.6.2018
Appendix II	Previous Applications covering the Site
Appendix III	Public comments received during the publication period
Appendix IV	Recommended Advisory Clauses
Drawings A-1	Layout Plan
Plan A-1a & A-1b	Location Plan and Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2018**