

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/863

<u>Applicant</u>	: Kam Sing Yuet Investment & Development Co., Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 2157 (Part), 2962 S.B (Part), 2963 S.B RP, 2964 S.B RP (Part), 2965 S.B (Part) and 2966 (Part) in D.D. 111, Lot 337 (Part) in D.D. 114 and Adjoining Government Land, Kam Tin Road, Pat Heung, Yuen Long
<u>Site Area</u>	: About 1,886 m ² (including Government land of about 118m ² (6.3%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Open Storage” (“OS”)
<u>Application</u>	: Proposed Temporary Wholesale Trade for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary wholesale trade for a period of 5 years. According to the Notes of the OZP, ‘Wholesale Trade’ is a Column 2 use in the “OS” zone, which requires planning permission from the Town Planning Board (the Board). The Site is largely vacant and partly used for open storage of construction machinery.
- 1.2 Part of the Site is the subject of a previous application for open storage of vehicles for sale or disposal and for stripping/breaking or repair and workshop which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 1997.
- 1.3 According to the applicant, one 1-storey structure (about 11m in height) will be erected for wholesale trade (packaged drinks), ancillary storage of goods and site office with a total floor area of about 1,023m² (site coverage of about 54%). A total of 2 private car parking spaces and 2 loading/unloading spaces for light goods vehicles will be provided. The operation hours will be 9:00a.m. to 6:00p.m. Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The Site is directly accessible from Kam Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form and plans received on 11.11.2020 (Appendix I)
- (b) Further Information (FI) received on 29.12.2020 in response to departmental comments (Appendix Ia)
(exempted from publication requirement)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form and FI at **Appendices I** and **Ia**, and are briefly summarized as follows:

- (a) The proposed development is on a temporary basis and will not frustrate the long-term planning intention of the “OS” zone. The applicant would like to use the Site to operate a wholesale trade (packaged drinks) business in Yuen Long to provide convenience to nearby retailers.
- (b) No medium or heavy goods vehicles over 5.5 tonnes will be allowed to enter / exit the Site and no storage of dangerous goods will be carried out during the approval period. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD). The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas.

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

The applicant is not the “current land owner” of the private land portion of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

4. **Background**

The Site is not subject to any active planning enforcement case.

5. **Previous Application**

Part of the Site is the subject of a previous application (No. A/YL-PH/126) for open storage of vehicles for sale or disposal and for stripping/breaking or repair and workshop submitted by a different applicant. The application was approved with conditions by the Committee in 1997 mainly for the reasons that the proposed use was in line with the

planning intention of the “OS” zone and conformed to the “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”; it was not incompatible with the surrounding land uses; and relevant departments had no adverse comment on the application. Details of the application is summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is no similar application for wholesale trade within the same “OS” zone.

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

7.1 The Site is:

- (a) paved, largely vacant and partly used for open storage of construction machinery; and
- (b) directly accessible from Kam Tin Road.

7.2 The surrounding area is rural in character intermixed with open storage yards, warehouse, workshop, canteen, car service, residential structures / dwellings, vacant / unused land and film studio:

- (a) to its east, south and west are open storage yards, warehouse and workshop. To its further west is a film studio; and
- (b) to its north across Kam Tin Road are residential structures / dwellings, open storage yards, canteen, car service, workshop and vacant / unused land.

8. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Department

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, Lands Department (DLO/YL of LandsD):

- (a) The Site comprises Government Land (GL) and Old Scheduled 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 (about 40m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) Within the Site, part of the GL and 2962 S.B (Portion) are covered by Short Term Tenancy (STT) No. 1605 and Short Term Waiver (STW) No. 2141 (about 78m²) to permit 'Storage of Vehicle Parts' and 'Storage and Trading of Vehicle Parts' respectively.
- (d) Should the application be approved, the STW holder(s) and STT tenant will need to apply to his office for modification of the STT/STW conditions where appropriate, and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications 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 applications will be approved. If such applications 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 the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant’s attention is drawn to the following points:
 - (i) a proposed one-storey structure with a height of about 11m is noted. Justification on the proposed storey height

should be provided at building plan submission stage and the excessive height may be considered as more than one storey in the calculation of the gross floor area;

- (ii) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application;
- (iii) for UBW erected on leased land, enforcement action may be taken by the 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;
- (iv) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling etc.) 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;
- (v) 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;
- (vi) 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;
- (vii) any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations; and
- (viii) detailed checking under the BO will be carried out at building plan submission stage.

Fire Safety

9.1.7 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 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) 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

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

He has not received any comments from the locals upon close of consultation and has no particular comments on the application.

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

- (a) Project Manager/West, Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

10. Public Comments Received During the Statutory Publication Period

On 20.11.2020, the application was published for public comments. During the three-week statutory publication period, two public comments were received from an individual and a Yuen Long District Council Member (**Appendices III-a and III-b**). They object to the application mainly on the grounds that commercial operation in residential cluster will affect rural living and ecological environment; the building height of the proposed structure is too high and would cause visual impact on the nearby residents; and the structures in rural area should not exceed 9m.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade for a period of 5 years at the “OS” zone. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. While the proposed wholesale trade use is not entirely in line with the planning intention of the “OS” zone, it is not incompatible with the intended uses in the zone. Approval of the application on a temporary basis for a period of 5 years would not jeopardize the long-term planning intention of the “OS” zone.
- 11.2 The proposed development is not incompatible with the surrounding area which is rural in character intermixed with open storage yards, warehouse, workshop, residential structures / dwellings, vacant / unused land and film studio.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. The applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD, and D of FS could be addressed by approval conditions (a) to (f) recommended in paragraph 12.2 below.
- 11.4 The Site is subject to a previous application for open storage of vehicles for sale or disposal and for stripping/breaking or repair and workshop which was approved with conditions by the Committee in 1997 as detailed in paragraph 5 above.
- 11.5 Two public comments objecting to the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary wholesale trade for a period of 5 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 5 years until 8.1.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;

- (b) the submission of a 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 8.7.2021;
 - (c) in relation to (b) above, the implementation of the 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 8.10.2021;
 - (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
 - (e) 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 8.7.2021;
 - (f) in relation to (e) 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 8.10.2021;
 - (g) if any of the above planning condition (a) 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
 - (h) if any of the above planning condition (b), (c), (e) or (f) 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.
- 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 "OS" zone which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory Clauses

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

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 with plans received on 11.11.2020
Appendix Ia	FI received on 29.12.2020
Appendix II	Previous application covering the Site
Appendices III-a and III-b	Public comments received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**