

RNTPC Paper No. A/YL-PS/560
For Consideration by
the Rural and New Town
Planning Committee
on 15.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/560

- Applicant** : Yat Tin Property Management Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 25 (Part), 26 RP, 27 RP, 28 RP (Part), 29 RP (Part) and 30 RP in D.D. 121, Ping Shan, Yuen Long, New Territories
- Site Area** : About 4,550 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ping Shan Outline Zoning Plan No. S/YL-PS/17
- Zoning** : “Government, Institution or Community” (“G/IC”) (about 99%); “Residential (Group B) 1” (“R(B)1”) (about 0.4%) and “Village Type Development” (“V”) (about 0.6%)
- [Restricted to a maximum plot ratio of 1, maximum site coverage of 40% and a maximum building height of 5 storeys (15m) including car park for “R(B)1” zone]
- [Restricted to a maximum building height of 3 storeys (8.23 m) for “V” zone]
- Application** : Proposed Temporary Shop and Wholesale of Construction 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 proposed temporary shop and wholesale of construction materials for a period of 3 years (**Plan A-1**). The Site is currently being used for parking of vehicles (**Plan A-4**).
- 1.2 According to the Notes for the “G/IC” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board) while ‘Wholesale Trade’ is a Column 1 which is always permitted. According to the Notes for the “R(B)1” and “V” zones on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Board

whilst 'Wholesale Trade' is neither a Column 1 nor Column 2 use. The applicant currently seeks temporary permission for a period of 3 years.

- 1.3 The Site (in part or in whole) is related to four previous applications (Nos. A/DPA/YL-PS/49, A/YL-PS/52, 53 and 269) for temporary parking of vehicles. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.
- 1.4 The major development parameters of the application are as follow:

Site Area	4,550m ²
Maximum Floor Area	2,910m ²
No. of Structures	4 (shop, water tank, pump room and toilet)
Maximum Height of Structures	3.5m to 8.5m (1 storey)
No. of Private Car Parking Spaces	nil
No. of Loading/Unloading Bay for Medium Goods Vehicles	1 (11m x 3.5m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including public holidays)

- 1.5 The site plan, location plan, proposed layout plan, proposed landscape plan, proposed drainage plan and proposed internal layout plan are at **Drawings A1 to A6** respectively.
- 1.6 According to the applicant, the Site is accessible via an existing track connecting Ping Kwai Road. No cutting, dismantling, cleansing, compacting or other workshop activity is allowed on the Site at any time during the planning approval period.
- 1.7 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 2.5.2018 **(Appendix I)**
 - (b) Executive summary with drainage proposal, estimated traffic generation, site plan, location plan, proposed layout plan, proposed landscape plan and proposed drainage plan **(Appendix Ia)**
 - (c) Letter of 30.5.2018 providing proposed internal layout plan **(Appendix Ib)**
 - (d) Letter of 5.6.2018 providing further information on mode of operation **(Appendix Ic)**

2. Justifications from the Applicant

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

- (a) There is a strong demand for construction material for home decoration in the

area. The proposed location allows wholesale trade so that the exhibition of construction material such as sanitary ware and tiles is possible.

- (b) Wholesale trade is a Column 1 use in the “G/IC” zone which is always permitted. The shop for retail of construction material is a Column 2 use in “G/IC”, “V” and “R(B)1” zones which requires the permission of the Board.
- (c) The proposed development is temporary in nature. It would not jeopardise the long term planning intention of the “G/IC”, “V” and “R(B)1” zones.
- (d) The Site is not owned by the Government so that the acquisition of land “G/IC” use takes time. As such, the temporary conversion of the Site for another use would be a prudent use of scarce land resource.
- (e) The nature, form and layout of the proposed development are compatible with the surrounding environment. It would not affect the character of the surrounding environment.
- (f) The Board has approved similar shop and wholesale use in “G/IC” zone within the same OZP.
- (g) The operation hour of the proposed development is 9:00 a.m. to 7:00 p.m. from Mondays to Sundays including public holidays.
- (h) Loading/unloading bays are proposed for the proposed development. Only medium goods vehicle not exceeding 24 tonnes will be allowed to enter the Site for the convenience of staff and clients. There is also a public vehicle park outside the Site so that clients could park their car at the public vehicle park before they get into the shop.
- (i) Only retail and wholesale of construction material will be carried out at the Site. No cutting, dismantling, cleansing, compacting or other workshop activity will be carried out at the Site at any time.
- (j) The construction material for retail and wholesale at the Site includes sanitary ware, metal and pipes. They will be exhibited at the Site for retail and wholesale purposes. Some stocks of metal, sanitary ware and pipes will be available at the Site so that the client can call light goods vehicle for delivery. For bulky material, it may not be stocked at the Site. They will be delivered to the client directly from the warehouse at another location.
- (k) The result of preliminary technical proposals demonstrated that the actual impact generated by the proposed development would be insignificant. No adverse traffic, environmental, landscape and drainage impacts are foreseen.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning 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 notice of the application outside the Site and sending registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

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

5. Previous Applications

5.1 The Site is involved in four previous applications (Nos. A/DPA/YL-PS/49, A/YL-PS/52, 53 and 269) for temporary parking of vehicles. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 Application Nos. A/DPA/YL-PS/49 (for temporary public carpark) and A/YL-PS/53 (for public lorry and car park) were approved with conditions by the Committee on 5.5.1995 for 2 years and 14.5.1999 for 12 months respectively. The applications were lapsed on 6.5.1997 and 15.5.2000 respectively.

5.3 Application No. A/YL-PS/52 (for temporary container trailer, tractor and car park for a period of 12 months) was rejected by the Committee on 14.5.1999 mainly on grounds that incompatible with surrounding village settlements, access to the site was unsatisfactory, the use would pose threats to the service of Light Rail Transit, no information to demonstrate that the use would have no adverse environmental and visual impacts and the approval would set an undesirable precedent.

5.4 Application No. A/YL-PS/269 (for temporary public vehicle park for private cars, lorries and coaches) was approved by the Committee on 27.7.2007 for a period of ~~3 years~~ **12 months**. However, the planning permission was revoked on 27.1.2008 as the applicant failed to comply with the implementation of landscape proposal within the specific time limit.

6. Similar Application

There is no similar application within the same "G/IC" zone.

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

7.1 The Site is:

- (a) occupied by parking of vehicles; and
- (b) accessible via an existing track connecting Ping Kwai Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is a vehicle park without valid planning permission. To the further north and northeast are vacant land and residential dwellings;
- (b) to the east of the Site is a temporary vehicle park (private cars and light

goods vehicles) covered by an approved application (No. A/YL-PS/540);

- (c) to the immediate south is a temporary vehicle park (private cars and light goods vehicles) and car testing centre with ancillary office covered by an approved application (No. A/YL-PS/488). To the further south are vacant land and a residential development (La Mansion); and
- (d) to the west is a local track, Light Rail and nullah.

8. Planning Intention

The Site largely (99%) falls within “G/IC” zone. The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

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, Lands Department (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 prior approval of the Government.
- (b) The Site is accessible to Ping Kwai Road via government land (GL). His office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the 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 planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. Such application(s) will be considered by the LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) 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 the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) 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 B(P)R at the building plan submission stage.

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 24m to its south) (**Plan A-2**) and environmental nuisance is expected.
- (b) Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and

requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Traffic

9.1.4 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

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

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

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

Drainage

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

- (a) He has no objection in principle to the proposed development from a drainage point of view. The submitted drainage proposal is acceptable. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (b) The applicant is reminded that the development should neither

obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the adjacent areas.

- (c) The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside the lot boundary before commencement of the drainage works.

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 (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be 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.

Landscape

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

- (a) With reference to the site photos on 11.15.2018 and aerial photos of 2017, it is observed that the Site is gravel paved and without any significant vegetation. The Site lies in an area of village landscape character. Significant change to the landscape character arising from the application is not envisaged.
- (b) Noting the applicant has enclosed a landscape proposal for his consideration, he has the following advisory remarks:
 - (i) The applicant is advised that a minimum soil provision of 1m (W) x 1m (L) x 1.2m (D) should be provided for each new tree, and precautionary measures such as kerbs and/or bollards should be provided to prevent damage to the trees by vehicles. Furthermore, there shall be no stacking or storage of any objects within 1m of any tree.

- (ii) The applicant is advised that the approval of the landscape proposal by the Board under s.16 application does not imply approval of tree works such as pruning, transplanting or felling under lease. Tree felling applications should be submitted to direct to DLO for approval.
- (iii) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.

Others

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

LCSD will not undertake the maintenance of the proposed trees in the proposal.

9.1.10 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 interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the mentioned 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 concerned 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

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

His office has not received any comment from locals upon the end of consultation period.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);

- (b) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (c) Commissioner of Police (C of P);
- (d) Secretary for Education (S for E);
- (e) Director of Social Welfare (DSW);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (g) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD); and
- (h) Project Manager (West), CEDD (PM(W), CEDD).

10. Public Comments Received During Statutory Publication Period

On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.6.2018, one objecting public comment (**Appendix III**) was received on the ground that the Site should be developed for community purposes to be in line with the planning intention of the OZP.

11. Planning Considerations and Assessments

- 11.1 The Site falls largely within an area zoned “G/IC” (about 99%). The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The “G/IC” zone is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. The proposed development, including shop for retail of construction materials, is not in line with the planning intention of the “G/IC” zone. However, there is not yet any programme/known intention to implement the zoned use on the Site for the time being. Temporary approval of the application for a period of 3 years would not jeopardise the long-term planning intentions of the “G/IC” zone.
- 11.2 The proposed development is not entirely incompatible with the surrounding uses including vehicle parks, temporary car testing centre and residential use. (**Plan A-2**).
- 11.3 Relevant Government departments, including AC for T/NT, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, drainage and landscape impacts to the surrounding areas. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential dwelling is about 24m to the south of the Site (**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of

Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.

- 11.4 There is one public comment objecting to the application received on the grounds as summarized in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary shop and wholesale of construction 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 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no cutting, dismantling, cleansing, compacting or other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the implementation of the accepted 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 **15.12.2018**;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (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 Town Planning Board by **15.12.2018**;
- (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 Town Planning

Board by **15.3.2019**;

- (i) the submission of 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 **15.12.2018**;
- (j) in relation to (i) above, the implementation of 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 **15.3.2019**;
- (k) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **15.12.2018**;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (f) 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;
- (m) if any of the above planning conditions (e), (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; and
- (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 development is not in line with the planning intentions of the "G/IC" zone which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The applicant fails to demonstrate the proposed shop for retail and wholesale of construction materials would not generate adverse environmental nuisance on the surrounding areas. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to

consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

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

14. Attachments

Appendix I	Application form received on 2.5.2018
Appendix Ia	Executive summary with drainage proposal, estimated traffic generation, site plan, location plan, proposed layout plan, proposed landscape plan and proposed drainage plan
Appendix Ib	Letter of 30.5.2018 providing proposed internal layout plan
Appendix Ic	Letter of 5.6.2018 providing further information on mode of operation
Appendix II	Previous Applications covering the Site
Appendix III	Public Comment Received During Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Location Plan
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Landscape Plan
Drawing A-5	Proposed Drainage Plan
Drawing A-6	Proposed Internal Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**