

RNTPC Paper No. A/YL-PS/577
For Consideration by
the Rural and New Town
Planning Committee
on 21.12.2018

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

APPLICATION NO. A/YL-PS/577

- Applicant** : Maxhero Limited
- Site** : Lots 763RP, 764, 765, 766, 767, 768, 771 & 772S.B. in D.D.122, East of Yung Yuen Road, Ping Shan, Yuen Long, New Territories
- Site Area** : About 7,075 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Comprehensive Development Area” (“CDA”)
[restricted to maximum plot ratio of 0.4 and maximum building height of 3 storeys including car park]
- Application** : Renewal of Planning Approval for Temporary Warehouse (Storage of Used and New Construction Materials and Equipment)

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary warehouse (storage of used and new construction materials and equipment) for a period of 3 years (**Plan A-1**). “Warehouse” is neither a Column 1 nor a Column 2 use. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently being used for the applied use with valid planning permission (No. A/YL-PS/513) until 19.2.2019. The applicant currently seeks renewal of planning approval for a period of 3 years.
- 1.2 The Site was involved in 6 previous applications (Nos. A/YL-PS/33, 47, 79, 82, 393 and 513) for temporary vehicle park and open storage of unregistered cars, residential development, temporary open storage of construction materials and temporary warehouse. The last Application No. A/YL-PS/513 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 19.2.2016. All the time-specific approval conditions have been complied with. The planning permission is valid until

19.2.2019. Details of the previous applications are summarized at paragraph 5 below and at **Appendix III**.

- 1.3 The major development parameters of the current application are the same as the approved application (No. A/YL-PS/513):

Site area	About 7,075m ²
Total floor area	Not more than 1,235 m ²
No. of structures	6 structures (5 warehouses, 1 ancillary structure)
Maximum height of structures	6m (1 storey)
No. of parking spaces	2 for private cars (5m x 2.5m and 5m x 3.5m for persons with disabilities)
Loading/ unloading spaces	3 for light goods vehicles (7m x 3.5m each)
Operation hours	9 a.m. to 5 p.m. from Mondays to Saturdays (no operation on Sundays and public holidays)

- 1.4 According to the applicant, no repairing, dismantling or other workshop activity is allowed on the site at any time during the planning approval period.

- 1.5 The lot index plan, master layout plan and section are at **Drawings A-1 to A-3** respectively.

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

- (a) Application form with master layout plan and section plan (**Appendix I**) received on 19.10.2018
- (b) Email dated 20.11.2018 providing a comparison table of development parameters of the last approved application and the current application (**Appendix Ia**)
(accepted and exempted from publication and recounting requirement)
- (c) Letter dated 5.12.2018 providing responses to the comments of the Transport Department (TD) (**Appendix Ib**)
(accepted and exempted from publication and recounting requirement)
- (d) Letter dated 11.12.2018 providing responses to the comments of the TD (**Appendix Ic**)
(accepted and exempted from publication and recounting requirement)

2. **Justifications from the Applicant**

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

- (a) The temporary warehouse development had taken more than 2 years to complete due to fulfilment of all statutory requirements imposed by the Government (for example, requirements from Drainage Services Department, Fire Services Department, Buildings Department, etc.), and the approval conditions as specified in the s.16 Permission A/YL-PS/513.
- (b) The warehouse would facilitate the housing development nearby as there is a shortage of building supply storage in the area, and assist the Applicant's participation in the building development in Yuen Long and its surrounding areas.
- (c) Given that the s.16 Application A/YL-PS/513 will lapse on 19 February 2019, it leaves a residual of only four months; and therefore this application is submitted to extend the s.16 Permit for 3 years as to fully utilize the development.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner." Detailed information will be deposited at the meeting for Members' inspection.

4. Background

The current use at the Site is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission (No. A/YL-PS/513 valid until 19.2.2019) if the subject application is not approved by the Board.

5. Town Planning Guidelines

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) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

6. Previous Applications

- 6.1 The Site was involved in 6 previous applications (No. A/YL-PS/33, 47, 79, 82, 393 and 513). Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application Nos. A/YL-PS/33, 79 and 82 for temporary vehicle park and open storage uses were rejected by the Committee and the Board on review from 1998 to 2001. The main considerations included failure to demonstrate no adverse impacts, incompatible with the surrounding land uses, and/or setting undesirable precedent.
- 6.3 Application No. A/YL-PS/47 for proposed residential development was rejected by the Board upon review in 1999 for reasons of insufficient information to demonstrate the feasibility of widening Yung Yuen Road and no adverse traffic impact, insufficient information to demonstrate no sewerage impact, and undesirable precedents.

- 6.4 Application Nos. A/YL-PS/393 and 513 for proposed temporary warehouse for a period of 3 years, were approved with conditions by the Committee on 15.3.2013 and 19.2.2016 respectively on considerations of not frustrating the long-term planning intention of the “CDA” zone; not incompatible with the surrounding land uses; and no adverse environmental, drainage, traffic and landscape impacts. However, application No. A/YL-PS/393 was revoked on 15.12.2013 due to non-compliance of approval conditions on submission and implementation of drainage proposal and provision of boundary fencing. For the last approved applications No. A/YL-PS/513, all time-specific approval conditions have been complied with.
- 6.5 Compared with the last approved application (No. A/YL-PS/513), the current application is submitted by the same applicant for the same use on the same site with the same development parameters and same layout.

7. Similar Applications

- 7.1 There were two similar applications (Nos. A/YL-PS/482 and 573) for temporary warehouse within an adjacent “CDA” zone. Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Application Nos. A/YL-PS/482 and 573 were approved with conditions by the Committee on 4.12.2015 and 16.11.2018 respectively. The main considerations were that temporary approval of the application would not jeopardise the long-term planning intention of the “CDA” zone and not incompatible with the surrounding uses.

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

8.1 The Site is:

- (a) currently used as temporary warehouses; and
- (b) accessible via Yung Yuen Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast are plant nursery, residential dwellings, parking of vehicle, open storage yards for metal ware, marble & machinery, marble workshop, which are suspected unauthorized developments (UDs);
- (b) to the east and southeast are residential dwellings, vacant land, open storage yard of recycling materials, parking of trailers and container vehicles, which are suspected UD;
- (c) to the south and southwest are soy sauce factory, graves, unused land;
- (d) to the immediate west are residential dwellings, and to the further west and northwest across Yung Yuen Road are open storage yards of recycling and construction materials, residential dwellings, graves,

latrine, vacant land.

9. Planning Intention

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 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 the prior approval of the Government.
- (b) Lot Nos. 763RP, 764, 765, 766, 768, 771 & 772 S.B in D.D. 122 within the Site are covered by Short Term Waiver (STW) No. 4855 to permit structures erected thereon from the purpose of “temporary warehouse (storage of used and new construction materials and equipment).
- (c) The Site is accessible from Yung Yuen Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holders(s) will need to apply to his office for modifications of the STW conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(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.

- (f) Regarding the local objection concerning illegal occupation of government land by the temporary warehouse at the Site, it is noted that no government land is involved in the subject planning application. Any occupation of GL without Government's prior approval is not allowed.

Building Matters

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

A temporary occupation permit was issued by BD for the subject premises.

Traffic

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

- (a) The applicant is reminded that sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from public roads.
- (b) 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.

10.1.4 Comments of the Chief Highway 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 surface water flowing from the Site to nearby public roads/drains.
- (c) For Yung Yuen Road, only the section to the south of lamp post no. V0297 is maintained by HyD. HyD is not and shall not be responsible for the maintenance of any access connecting the Site and that section of Yung Yuen Road.

Drainage

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

- (a) Since it is an application for renewal of planning approval of the previous application no A/YL-PS/513, he supposes the existing drainage facilities will be maintained by the applicant. He has no objection in principle to the proposed development from a drainage

point of view.

- (b) 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 maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Environment

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

- (a) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (b) With respect to the public comments with concerns on wastewater, air quality and noise, should the application be approved, the applicant is advised to follow all relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisances. He would also like to remind that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.

Fire Safety

10.1.7 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. Therefore, 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. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) 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.

Landscape

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

With reference to the aerial photo of 2018, it is observed that the applied use is currently in operation. The site is situated in an area of rural landscape character. Significant change to the landscape character arising from the application is not envisaged.

District Officer's Comments

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

He received 33 replies from the locals including the village representative of Wing Ning Tsuen and villagers of Ping Shan Heung Wing Ning Tsuen Committee (samples at **Appendices V-1 to V-16**). They object to the application mainly on the grounds of traffic safety, adverse drainage and environmental impacts and illegal occupation of government land.

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

- (a) Antiquities and Monuments Office, Development Bureau (AMO, DEVB);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comments Received During Statutory Publication Period

On 9.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 4.12.2018, 5 supportive public comments (**Appendices VI-1 to VI-5**) were received on the grounds that the warehouse's drainage system mitigates the flooding problem in the area; the warehouse is built in compliance with government regulations; the applicant demonstrated significant efforts to complete the warehouse project; and the warehouse has positive impact on the development prospect of the area.

12. Planning Considerations and Assessments

12.1 The current application is for renewal of the planning approval under previous application No. A/YL-PS/513 for temporary warehouse (storage of used and new construction materials) for a period of 3 years. The Site falls within "CDA" zone, which is intended for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Although the development is not in line with the planning intention of the "CDA" zone, approval of the application on a temporary basis for 3 years would not jeopardize the long-term planning intention of the "CDA" zone¹.

¹ A s.16 planning application at the subject "CDA" zone (including the current application site), submitted by the same applicant of the current application, for proposed residential development (flat and house) with a maximum plot ratio of 0.4 and a maximum building height of 3 storeys is under processing.

- 12.2 The Site is mainly surrounded by open storage yards, storage yards, car park, workshops, soy sauce factory, scattered residential dwellings, plant nursery, vacant land and unused land (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 34B in that there is no material change in planning circumstances since the previous temporary approval was granted; adverse planning implications arising from the renewal of the planning approval are not envisaged; all conditions under previous approval have been complied with; and the approval period sought is the same as of the previous approval.
- 12.4 Relevant Government departments, including AC for T of TD, CHE/NTW of HyD, CE/MN of DSD, DEP, D of FS, and CTP/UD&L of PlanD, have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. There has been no environmental complaint concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 13.2 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 minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee has approved 2 previous applications for the same use at the Site and 2 similar applications in the same “CDA” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are 5 public comments received in support of the application on grounds of flooding mitigation, compliance with governmental regulations, and development prospects as summarized in paragraph 11 above. The planning considerations and assessments above are also relevant. Besides, DO(YL), HAD has received 33 local objections on the application mainly on the grounds of traffic safety, adverse drainage and environmental impacts, illegal occupation of government land as summarized in paragraph 10.1.9 above. Government departments concerned have no adverse comment or objection to the application.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary warehouse (storage of used and new construction materials and equipment) 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 **20.2.2019** to **19.2.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m. is allowed on the Site, as proposed by the applicant, 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) no repairing, dismantling or other workshop activity, as proposed by applicant, is allowed on the site at any time during the planning approval period;
- (d) only private cars and light goods vehicles as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site at all times during the planning approval period;
- (e) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars and light goods vehicles as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing fencing of the Site shall be maintained at all times during the planning approval period;
- (h) the existing trees and landscape planting on the Site shall be maintained in good condition at all times during the planning approval period;
- (i) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a condition record of the existing drainage facilities within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **20.5.2019**;
- (k) the submission of a 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 **20.8.2019**;
- (l) in relation to (k) above, the implementation of the fire service installations proposal 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 **20.11.2019**;

- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (i) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (n) if any of the above planning conditions (j), (k), or (l) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[Approval conditions (a) to (f), (k) to (n) are the same as the previous application No. A/YL-PS/513 and conditions (g) to (j) have been revised to accord with the latest departmental comments]

Advisory clauses

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

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

the continual occupation of the Site for the applied use is not in line with the planning intention of the "CDA" zone which is intended for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities. There is no strong planning 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.

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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with master layout plan and section plan received on 19.10.2018
Appendix Ia	Email dated 20.11.2018 providing a comparison table of development parameters of the last approved application and the current application
Appendix Ib	Letter dated 5.12.2018 providing responses to the comments of the TD
Appendix Ic	Letter dated 11.12.2018 providing responses to the comments

Appendix II	of the TD Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use of Development (TPB-PG No. 34B)
Appendix III	Pervious applications covering the Site
Appendix IV	Similar applications within the adjacent “CDA” zone on the approved Ping Shan OZP No. S/YL-PS/18
Appendix V-1 to V-16	Comments from the locals conveyed by the District Officer (Yuen Long), Home Affairs Department
Appendices VI-1 to VI-5	Public comments received during statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Master Layout Plan
Drawing A-3	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**