

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/890

<u>Applicant</u>	: Idcaland Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 2714 S.A (Part), 2715 (Part), 2716 (Part) and 2718 (Part) in D.D. 124 and Adjoining Government Land, Tan Kwai Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 426 m ² (about) (including about 6 m ² of Government land)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Shop and Services (Retail Shop for Electrical Appliances) 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 services (retail shop for electrical appliances) for a period of 3 years. According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary approved for 3 years. The Site is partly occupied by a vacant warehouse with a guard room (**Plans A-2, A-4a and A-4b**) and is not involved in any previous application.
- 1.2 The Site is accessible via a local track leading from Tan Kwai Tsuen Road to its east (**Drawing A-1 and Plan A-2**). According to the applicant, no medium or heavy goods vehicles, including container trailer/tractor, will access the Site. The applicant also undertakes to provide and maintain all the drainage facilities and maintain the existing trees at his own expenses. Plans showing the vehicular access leading to the Site, proposed site layout, tree preservation proposal,

drainage proposal and proposed discharge path submitted by the applicant are at **Drawings A-1 to A-5** respectively.

1.3 The major development parameters of the application are summarized as follows:

Site Area	426 m ² (about) (including about 6 m ² of government land)
Total Floor Area (Non-domestic)	226 m ²
No. of Structures	2
Height of Structure	About 3.5m to 5.5m
Loading/Unloading Space	1 for Light Goods Vehicle Only (3.5m x 7m)
Operation Hours	9:00a.m. to 7:00p.m. (except Sundays and Public Holidays)

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

- (a) Application Form received on 7.3.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of the Supplementary Planning Statement in **Appendix Ia**. They can be summarized as follows:

- (a) The Site is not subject to impending land application for house development and temporary use therefore could be considered in the interim. In this regard, the proposed development would not jeopardize the long-term planning intention of the “R(D)” zone.
- (b) The proposed development is a Column 2 use in “R(D)” zone which is regarded as a supplementary use of the zone. A number of similar applications in rural Yuen Long have been approved by the Board including Applications No. A/YL-NTM/285 and 290, A/YL-TT/360 and A/YL-TYST/819. The Board should therefore give favourable consideration to the application.
- (c) The proposed development is compatible with the surrounding environment. Some temporary domestic structures are found to the north, south and west of the Site. It is clean, tidy and non-polluting and would not affect the character of the village.
- (d) Various assessments undertaken conclude that the proposed real estate agency would not generate significant adverse impact to the surroundings. The traffic generation would be insignificant to the surrounding road network and thus adverse traffic impact is not anticipated. The proposed development will generate neither environmental nor noise disturbance and the applicant will implement measures (e.g. restriction of operation hours and hard paving the site) to enhance

compatibility with the surrounding uses. All accrued runoff would be intercepted by the proposed 300mm surface U-channel along the site periphery and all proposed drainage facilities will be provided and maintained by the applicant at his own expense. As such, adverse drainage impact is not envisaged.

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 the notice to Ping Shan Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

The Site is not a subject of any previous application.

6. Similar Applications

6.1 There are a total of 3 similar applications (No. A/YL-TYST/713, 819 and 887) for proposed temporary shop and services (real estate agency) use in the subject “R(D)” zone. Detailed information of the applications is at **Appendix II** and their locations are shown on **Plan A-1**.

6.2 Application No. A/YL-TYST/713, 819 and 887 for proposed temporary shop and services (real estate agency) were approved with conditions by the Committee of the Board for a period of 3 years. However, the planning permissions No. A/YL-TYST/713 and 819 were subsequently revoked due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) located within Tan Kwai Tsuen (**Plan A-1**);
- (b) accessible via a local track leading from Tan Kwai Tsuen Road to its east (**Drawing A-1 and Plan A-2**); and
- (c) currently occupied by a vacant warehouse with a guard room (**Plans A-2, A-4a and A-4b**).

- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) predominantly rural in character mixed with residential structures, open storage/storage yards with/without workshops, site office, store, vacant school and vacant/unused land (**Plan A-2**);
 - (b) there are some residential structures in the vicinity of the Site with the nearest one located at about 10m to its south;
 - (c) the open storage/storage yards with/without workshops in the vicinity are mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

- 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, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lot held under 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 government land (GL) (about 6m² subject to verification) included in the Site. The applicant’s attention is drawn to the fact that the act of occupation of GL without Government’s prior approval is not allowed.
 - (c) The Site is accessible to Tan Kwai Tsuen Road through a local track on both private lot and GL. Her office provides no maintenance works for the GL involved and does not guarantee any right-of-way.
 - (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.

- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Such application(s) will be considered by LandsD acting in the capacity of the landlord 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 LandsD.

Traffic

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

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under the Transport Department'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.

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

- (a) The access arrangement should be commented by the Transport Department.
- (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) His Department shall not be responsible for the maintenance of any access connecting the Site and Tan Kwai Tsuen Road.

Environment

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

The latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department should be observed by the applicant.

Landscape

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

- (a) The Site is located in Tan Kwai Tsuen within an area zoned “R(D)” on the draft Tong Yan San Tsuen OZP No. S/YL/TYST/11. The application seeks for planning permission for the temporary shop and services (retail shop for electrical appliances) uses for a period of 3 years.
- (b) With reference to the information submitted and aerial photo taken in December 2015, the Site is occupied by some temporary structures. There are some existing trees along the west boundary and will be preserved on site that significant landscape impact arising from the proposed uses on the area is not anticipated. Therefore, she has no objection to the application from the landscape planning perspective.
- (c) Should the application be approved, an approval condition requiring the maintenance of all existing trees and landscape plantings within the Site at all times be applied in the planning permission is recommended.
- (d) The applicant should be reminded to conduct routine vegetation maintenance works, such as irrigating the trees and removing weeds regularly throughout the period. Fence and/or kerb or bollard should be constructed with a minimum distance of 1m around the planting areas to guard against damage to the trees and shrubs. The applicant should make reference to “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Conditions for Approved Applications for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”.
- (e) The applicant shall take reference to the following information/guideline published by the Greening, Landscape and Tree Management Section of the Development Bureau for tree maintenance:
 - Information About Tree Maintenance For Private Properties
(https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)
 - Pictorial Guide for Tree Maintenance
(https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)

Drainage

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

- (a) He has no in-principle objection to the proposed development from the drainage point of view.
- (b) His detailed comments on the revised drainage proposal (**Drawings A-4 and A-5**) are in **Appendix III**.
- (c) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a revised drainage proposal to the satisfactions of the Director of Drainage Services or of the Board, and maintenance of the drainage facilities should be stipulated.

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. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should 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 (BO) (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) As there is no record of approval by the Building Authority for the existing structures at the Site, his office 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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without

approval of BD, they are unauthorized building works (UBW) under BO and should not be designated for any proposed use under the application.

- (ii) For UBW erected on leased land, enforcement action may be taken by 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.
- (iii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD 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 BO.
- (iv) 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.
- (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

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

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the 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.

- 9.1.10 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). Part of the site falls within the Study Area of YLS but outside the development area of YLS, whereas the remaining part falls outside the Study Area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

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 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) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 16.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.4.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The subject application is for proposed temporary shop and services (retail shop for electrical appliances) at the Site zoned "R(D)" on the OZP. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the applied use is not entirely in line with the planning intention of the "R(D)" zone, there is no known programme for long-term development of the Site. It could also provide retail service of electrical appliances goods to serve any such demand in the area. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "R(D)" zone.

- 11.2 The proposed development comprises 2 single-storey structure with a total floor area of about 226m². It is considered that the proposed use and the development scale is not incompatible with the surrounding uses which are predominantly rural residential uses intermixed with some open storage and storage uses (**Plan A-2**).
- 11.3 Relevant government departments consulted, including DEP, C for T, CTP/UD&L and CE/MN, DSD, have no objection to or adverse comment on the application. Significant adverse environmental, traffic, landscape and drainage impacts on the surrounding area are not envisaged. Relevant approval conditions are also recommended in paragraphs 12.2 below to minimize any potential nuisance on the surrounding areas or to address the technical requirements of the concerned departments. Any non-compliance with the approval condition 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 also be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 11.4 There are three similar applications (No. A/YL-TYST/713, 819 and 887) approved by the Committee for similar shop and services use in the subject “R(D)” zone. Approval of the application is in line with the Committee’s previous decisions.
- 11.5 There is no public comment received on the application during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the proposed temporary shop and services (retail shop for electrical appliances) 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 4.5.2021. 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 medium or heavy goods vehicles, including container tractor/trailer, as defined in the Road Traffic Ordinance, is 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (d) the provision of boundary fence 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 4.11.2018;
- (e) the existing trees and landscape planting on the Site shall be maintained at all time during the approval period;
- (f) the submission of a revised 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 4.11.2018;
- (g) in relation to ~~(e-f)~~ above, the implementation of the revised 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 4.2.2019;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) 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 4.11.2018;
- (j) in relation to ~~(j-i)~~ 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 4.2.2019;
- (k) if any of the above planning conditions (a), (b), (c), (e) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (d), (f), (g), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (m) upon the expiry of the planning permission, the reinstatement of the 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 intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary

structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given in the submission to justify 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 7.3.2018
Appendix Ia	Supplementary Planning Statement
Appendix II	Similar Applications within the Same “R(D)” Zone on the OZP
Appendix III	Detailed Comments of CE/MN, DSD
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Plan showing the vehicular access leading to the Application Site
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation Plan
Drawing A-4	Proposed Drainage Plan
Drawing A-5	Proposed Discharge Path
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2018**