

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/839

<u>Applicant</u>	:	Ms. YU Fei represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lots 236 S.B ss.1 (Part), 261 S.A (Part) & 262 S.A (Part) in D.D. 85, Fu Tei Pai, Fanling, New Territories
<u>Site Area</u>	:	About 132m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Proposed Temporary Shop and Services for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site, being within the curtilage of an NTEH, is hard-paved, partly fenced and partially covered by an open shed, and is currently occupied by some miscellaneous items (**Plans A-4a** and **A-4b**).
- 1.2 The Site is accessible from Sha Tau Kok Road – Lung Yeuk Tau via the adjoining local access to its south (**Plans A-1** and **A-2**). According to the applicant, the proposed use is for a grocery store for selling daily necessities to serve the local villagers/residents. One single-storey temporary structure with building height of not more than 4m and total floor area of not more than 45m² for shop and services use is proposed at the northern part of the Site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Sundays (including public holidays). One loading/unloading space for private car is proposed at the southern-end of the Site. The layout plan submitted by the applicant is in **Drawing A-1**.

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

- (a) Application Form with Attachments received on 18.12.2024 (Appendix I)
- (b) Supplementary Information (SI) received on 25.12.2024 (Appendix Ia)
- (c) Further Information (FI) received on 21.3.2025[^] (Appendix Ib)
- (d) FI received on 13.4.2025[^] (Appendix Ic)

[^] *accepted and exempted from the publication and recounting requirements*

1.4 On 14.2.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer marking a decision on the application for a period of two months as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FIs at **Appendices I to Ic**, as summarised below:

- (a) the applicant intends to use the Site for a grocery store for selling daily necessities to serve the local villagers/residents;
- (b) the proposed use is temporary in nature and approval of the application would not frustrate the long-term planning intention of the “V” zone;
- (c) the proposed use is small in scale and is considered not incompatible with the surrounding land uses. It would not induce adverse traffic and environmental impacts on the surrounding areas;
- (d) there were approved similar applications for shop and services use within “V” zone and approval of the current application is generally in line with the Committee’s previous decision; and
- (e) should the application be approved, the applicant shall remove the existing open shed within the Site, and would implement the proposal in accordance with the approved scheme.

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

The applicant is one of the three “current land owners” and 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. 31B) by obtaining consent of other two “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

There is no previous application at the Site.

6. Similar Application

- 6.1 There was a similar application (No. A/NE-LYT/767) for temporary shop and services use partly within another “V” zone in the vicinity of the Site in the past five years (**Plan A-1**). The application was approved with conditions by the Committee on 9.9.2022 mainly on considerations that the applied use would not frustrate the long-term planning intention of the “V” and “Agriculture” zones; it was not incompatible with the surrounding areas; and no significant adverse traffic, drainage and landscape impacts on the surrounding areas were anticipated.
- 6.2 Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**

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

- 7.1 The Site is:
- (a) hard-paved, partly fenced and partially covered by an open shed, and currently occupied by some miscellaneous items;
 - (b) located within the curtilage of an NTEH and situated within the village proper of Fu Tei Pai, and generally surrounded by village houses; and
 - (c) accessible from Sha Tau Kok Road – Lung Yeuk Tau via the adjoining local access to its south.
- 7.2 The surrounding areas comprise predominantly village settlements of Fu Tei Pai intermixed with a warehouse, active/fallow farmland, unused land and clusters of tree groups.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices III and IV** respectively.

9.2 The following government department objects to the application:

Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N of 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. No right of access via Government land is granted to the Site;
- (b) the existing house on Lots 236 S.B ss.1 and 261 S.A in D.D. 85 outside the Site is covered by Building Licence No. 37/2011 for non-industrial purposes and the remaining portions of the lots are for agricultural or garden purposes. Part of the Site falls within the non-building portion of the said lots;
- (c) the following irregularity covered by the application has been detected:

Unauthorised structure within the said private lots covered by the application

there is an unauthorised structure on the private lots. The lot owner/applicant should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (d) the following irregularity not covered by the application has been detected:

Unauthorised structure within the said private lot not covered by the application

there is an unauthorised structure within and extended from the said private lots to other private lots not covered by the application. The lot owner/applicant should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) erection of unauthorised structure should not be encouraged. The lot owner/applicant shall remove the unauthorised structure immediately and, subject to the approval of the Board to the application which shall have reflected the rectification as aforesaid required, apply to his office for Short Term Waiver (STW) to permit the structure to be erected on Lot. 262 S.A in D.D. 85. The STW will be considered by LandsD in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if

approved, will be on whole lot basis and subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future. Given the proposed use is temporary in nature, only erection of temporary structure will be considered;

- (f) unless and until the unauthorised structure is duly rectified by the lot owner/applicant, his office has objection to the application and it must be brought to the attention of the Board when they consider the application; and
- (g) there is no Small House application at the Site.

10. Public Comments Received During Statutory Publication Period

On 27.12.2024, the application was published for public inspection. During the statutory public inspection period, eight public comments were received (**Appendix V**). Two comments from the Chairman and First Vice Chairman of the Fanling District Rural Committee object to the application mainly on the ground that there are concerns regarding hygiene and traffic/pedestrian safety in the area. Three comments from individuals object to the application mainly on the grounds that the applicant has not consulted with the nearby villagers/residents on the application; the details of the proposed shop and services are not provided; adverse traffic and pedestrian safety impacts are anticipated; and the proposed use would induce noise and other environmental nuisance as well as hygiene, security and drainage issues in the village areas. One comment from an individual queries on the proposed layout and potential interface between the pedestrian and vehicular access of the Site. The two remaining comments from a member of North District Council and an individual indicate no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years at the Site zoned “V” on the OZP (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “V” zone which is to provide land primarily for development of Small Houses by indigenous villagers, the proposed use is intended to serve the needs of the local villagers/residents for basic groceries. Besides, DLO/N of LandsD advises that there is no Small House application at the Site. In this regard, it is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site, which is located within the curtilage of an NTEH and the village proper of Fu Tei Pai, is generally surrounded by existing village houses (**Plans A-2 to Plan A-4b**). The proposed use is considered not incompatible with the surrounding land uses which are predominated by village settlements intermixed with a warehouse, active/fallow farmland, unused land and clusters of tree groups. Whilst the Site is bounded by village houses to its immediate east and west, the

Director of Environmental Protection has no objection to the application from environmental perspective. Besides, the operation of the proposed use is subject to relevant pollution control ordinances and environmental protection regulations. Should the application be approved, the applicant will also be advised to follow the requirements of the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimise the possible environmental nuisance on the surroundings.

- 11.3 Other concerned government departments consulted, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the application from traffic, drainage and fire safety aspects respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Regarding DLO/N of LandsD's concern on the unauthorised structures erected within and outside the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.4 There was one approved similar application for shop and services use as mentioned in paragraph 6 above (**Plan A-1**). The planning circumstances of the current application are similar to those of the approved similar application. Approval of the current application is generally in line with the Committee's previous decision.
- 11.5 Regarding the public comments as mentioned in paragraph 10 above, the government departments' comments and planning assessments 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 in paragraph 10 above, the Planning Department has no objection to the application.
- 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 three years until 2.5.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 2.11.2025;
- (b) in relation to (a) 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 2.2.2026;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;

- (d) 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 2.11.2025;
- (e) in relation to (d) 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 2.2.2026;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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.

Advisory Clauses

The recommended advisory clauses are 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 proposed use is not in line with the planning intention of the "V" zone, which is to provide land primarily for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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 the 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 Attachments received on 18.12.2024
Appendix Ia	SI received on 25.12.2024
Appendix Ib	FI received on 21.3.2025
Appendix Ic	FI received on 13.4.2025
Appendix II	Similar Application
Appendix III	Government Departments' General Comments

Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Site Layout Plan
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 2025**