

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/289

<u>Applicant</u>	: Mr. YEUNG Hon Sang and Ms. WONG Yee Yan represented by A-Tech Engineering Consultants Limited
<u>Site</u>	: Lot 3614 RP in D.D. 104, Pok Wai, Yuen Long
<u>Site Area</u>	: About 195.2 m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 5 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary shop and services (real estate agency) for a period of 5 years. The Site falls within an area zoned “V” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the Notes for the “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced off and occupied by two temporary structures.
- 1.2 According to the layout plan (**Drawing A-1**) submitted by the applicants, ingress/egress (about 5.5m wide) to the Site is located at the northeastern corner of the Site, which is accessible to Kam Pok Road East (**Plans A-1 and A-2**). 2 single-storey structures (not more than 3.5m in height) with a gross floor area of about 92.9m² are proposed at the Site as real estate agency offices. The operation hours of the proposed real estate agency are between 9:00 a.m. to 6:00 p.m. from Mondays to Fridays, 9:00 a.m. to 12:00 p.m. on Saturdays and no operation on Sundays and public holidays.
- 1.3 In support of the application, the applicants has submitted the following documents:

- (a) Application form received on 30.6.2021. **(Appendix I)**
- (b) Further Information (FI) received on 20.8.2021 providing responses to departmental comments * **(Appendix Ia)**
- (c) FI received on 24.8.2021 providing swept path analysis in response to Transport Department's comments* **(Appendix Ib)**

Remark: * accepted and exempted from publication and recounting requirements

2. Justifications from the Applicants

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

- (a) The proposed development is compatible with the surrounding area. It would provide convenience service to the nearby villagers.
- (b) According to the applicant, the Site was previously used as a plant nursery, which is no longer in operation. There will be no change to the existing structures and the Site will not be put for domestic/residential use. Only light goods vehicle is allowed to enter the Site. The swept path analysis demonstrates that there is sufficient space for the type of vehicles to turn around within the Site.

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

The applicants are the sole “current land owner” of the Site. 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 Application

There is no previous application at the Site.

6. Similar Application

There is no similar application for shop and services use within the subject “V” zone on the OZP.

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

7.1 The Site:

- (a) is accessible via Kam Pok Road East from its northeast; and
- (b) is currently fenced off and occupied by two temporary structures.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is Kam Pok Road East. Further north and northwest across Kam Pok Road East are scattered residential dwellings, some unused land and ponds, an open storage yard for recycle materials which is suspected unauthorised development (UD) and a work site;
- (b) to its immediate east is Castle Peak Road – Tam Mi. Further east is San Tin Highway;
- (c) to its immediate south is open storage of vehicles which is suspected UD. Further south are a bee farm and unused land; and
- (d) to its west and southwest are a CLP’s Pylon and some vacant/unused land.

8. Planning Intention

The planning intention of “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 the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application and public comments are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.
- (c) According to his record, no Small House application has been approved/under processing in respect of the Site.

Traffic

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

He has no adverse comment on the application from traffic engineering perspective. Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Kam Pok Road East should be approved by the Transport Department.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

He has no comment from railway development viewpoint as the Site falls outside any administrative route protection boundary, gazetted railway schemes boundary or existing railway protection boundary of any railway systems.

Environment

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

The applicants are advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.

Landscape

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

- (a) With reference to the aerial photo and site photos, the Site is fenced-off, fully hard paved with existing temporary structures. There is no tree observed within the boundary. In view of the Site is not located in landscape sensitive zoning, outside Wetland Buffer Area and there are no significant landscape resources within the Site, no significant landscape impact is envisaged.
- (b) In view that the Site is not located within landscape sensitive zone and no significant adverse landscape impact arising from the proposed development is envisaged, it is considered not necessary to impose any landscape condition should the application be approved.

Drainage

9.1.7 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 the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring (i) the submission of a drainage proposal; and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.
- (c) There is no public sewer connection available in the vicinity. The applicants shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposed development.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application 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 applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicants should also 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 applicants are 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

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW) under BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (c) His detailed comments are at **Appendix III**.

Electricity Safety

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

There are 400kV extra high voltage overhead lines running above the Site. He has no objection in principle to the application. The applicant shall strictly comply with the electric supply safety and reliability requirements, as detailed in **Appendix III**.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Commissioner of Police;
- (d) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (e) Head of Geotechnical Engineering Office, CEDD; and
- (f) District Officer (Yuen Long), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 9.7.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 30.7.2021, 4 comments were received (**Appendix II**) from a Yuen Long District Council Member, San Tin Rural Committee, Village Representative of San Wai (I) Tsuen and an individual objecting to the application. They mainly raise objection on the grounds that the proposed development is not in line with the planning intention. It would induce traffic and road safety problems, pollution, fire risk, and affect the safety and living quality of the villagers. Besides, the proposed development will block the access to a plant nursery.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (real estate agency) for a period of 5 years at the Site zoned “V”. 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. Although the applied shop and services (real estate agency) use is not entirely in line with the planning intention of the “V” zone, no Small House application in respect of the Site has been approved or under processing according to DLO/YL. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed development is not incompatible with the surrounding land uses with scattered residential dwellings, unused land and bee farm. The proposed real estate agency can serve the local residents.
- 11.3 The proposed development would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD from traffic, environment, drainage, fire safety and landscape perspectives. Should the application be approved, technical requirements of C for T, CE/MN of DSD and D of FS can be imposed as the approval conditions

recommended in paragraphs 12.2 (a) to (f) below. The applicants will also be advised to follow the relevant mitigation measures and requirements in the latest COP.

- 11.4 4 opposing public comments were received during the statutory public inspection period of the application as detailed in paragraph 10. Regarding the access to a plant nursery, the applicants have clarified that the Site was previously used as a plant nursery, which is no longer in operation. As for the other concerns, the planning assessment and departmental comments 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 comments mentioned in paragraph 10, 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 5 years until 27.8.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reserve onto/from public road at any time during the planning approval period;
- (b) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 27.2.2022;
- (c) in relation to (b) above, the implementation of 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 27.5.2022;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of 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 27.2.2022;
- (f) in relation to (e) 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 27.5.2022;
- (g) if any of the above planning conditions (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and

- (h) if any of the above planning conditions (b), (c), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

the proposed development is not in line with the planning intention of the "V" zone, which 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. No strong planning justification has been given in the submission for 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 reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix I	Application form received on 30.6.2021
Appendix Ia	FI received on 20.8.2021
Appendix Ib	FI received on 24.8.2021
Appendix II	Public comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2021**