

RNTPC Paper No. A/YL-NTM/417  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 16.4.2021

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-NTM/417**

**Applicant** : Sinotek Cross Limited represented by R-riches Property Consultants Limited

**Site** : Lot 343 (Part) in D.D. 104, Ngau Tam Mei, Yuen Long

**Site Area** : About 232 m<sup>2</sup>

**Land Status** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12

**Zoning** : “Recreation” (“REC”)

**Application** : Proposed Temporary Shop and Services (Convenience Store) for a Period of 5 Years

**1. The Proposal**

1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (convenience store) for a period of 5 years. The Site falls within an area zoned “REC” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.

1.2 The Site is accessible from San Tam Road via Ngau Tam Mei Road and a local access road. The proposed development involves a single-storey structure (about 4m in height) for convenience store and ancillary office having a total floor area of about 126m<sup>2</sup>. The operation hours of the proposed convenience store are between 9:00 a.m. and 7:00 p.m. daily (including public holidays). One private car parking space will be provided within the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

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

(a) Application form received on 22.2.2021. **(Appendix I)**

## **2. Justifications from the Applicant**

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

- (a) The proposed development is a convenience store serving the locals. Since the application is on a temporary basis, it will not jeopardise the long-term planning intention of the “REC” zone.
- (b) The estimated maximum number of visitors and staff members working at the Site per day are about 15 and 3 respectively.
- (c) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer will be allowed to access the Site; and no storage of dangerous goods will be carried out at the Site at any time during the planning approval period.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (COP) issued by the Environmental Protection Department (EPD) to minimise all possible environmental impacts on the nearby sensitive receivers.
- (e) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding area with adequate mitigation measures provided upon planning approval.

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

The applicant is not the “current land owner” 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. 31A) by posting site notice and sending notice to the San Tin 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 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 “REC” zone on the OZP.

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

7.1 The Site is:

- (a) currently idle and covered with vegetation; and
- (b) accessible from Ngau Tam Mei Road via a local access road to the northwest of the Site.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are some unused land and residential dwellings;
- (b) to its west and northwest are open storages of construction materials which are suspected unauthorised developments (UDs);
- (c) to its immediate south are vacant land, unused land, and an open storage of construction materials which is suspected UD. To its further south are a holiday camp and residential dwellings; and
- (d) to its east and further southeast are unused land, residential dwellings, storage yard and open storages of construction machinery and construction materials. Such storage/open storages are suspected UD.

**8. Planning Intention**

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

**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, 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 application, the lot owner will need to immediately apply to his office to permit the

structures to be erected or regularise any irregularity on 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.

### **Traffic**

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

- (a) The Site is connected to Ngau Tam Mei Road via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) All vehicles of 7m or above are currently prohibited to enter Ngau Tam Mei Road.
- (c) 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 Ngau Tam Mei Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Ngau Tam Mei Road.
- (c) 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, HyD (CE/RD 2-2, RDO, HyD):

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

## **Environment**

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

The applicant is advised to follow the environmental mitigation measures and requirements in the latest 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) He has no objection from landscape planning perspective.
- (b) Based on the aerial photo taken in 2020, the Site is situated in an area of settled valleys landscape character comprising temporary structures, vacant land, scattered tree groups and farmlands. The proposed development is considered not entirely incompatible with the surrounding landscape setting.
- (c) According to the site record dated 1.3.2021, the Site is covered with wild grass and one existing tree *Ficus microcarpa* (細葉榕) in good condition is found in the southern portion of the Site. With reference to the site layout plan in the planning statement, it is apparent that the proposed structure B1 is in conflict with the *Ficus microcarpa* (細葉榕) in the Site. As no information on the existing tree within the Site and landscape treatment for the affected tree is provided in the planning statement, the potential impact on the existing tree cannot be ascertained. As the existing tree is common species, significant adverse impact on the existing landscape resources arising from the proposed development within the Site is not anticipated.
- (d) In view that the Site is not abutting prominent public frontage and existing trees are found outside the Site, landscape condition is therefore not recommended should the Board approve the application, as the effect of additional landscaping on enhancing the public realm is not apparent.
- (e) The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal where appropriate.
- (f) The applicant shall review and revise the layout of structure B1 to avoid conflicts with the existing tree *Ficus microcarpa* (細葉榕) in the Site.

### **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, the following conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.

### **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 applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant 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 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**

9.1.9 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, the 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 building works or UBW on the Site under BO.
- (c) His detailed comments are at **Appendix III**.

### **Others**

#### 9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no objection on the application.
- (b) Proper licence/permit issued by the Food and Environmental Hygiene Department (FEHD) is required if there is any catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (c) His detailed comments are at **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).

### **10. Public Comments Received During Statutory Publication Period**

On 2.3.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 23.3.2021, 34 public comments were received from 攸潭美村委 and individuals (**Appendix II**) objecting to the application mainly on the grounds that the application would induce adverse traffic impact on the narrow access road, causing road safety problem, increase the flooding risk to the area, affect the living environment/fengshui of the villagers, there is no strong justification for a departure from the planning intention of the “REC” zone, the land ownership of the Site is not clear and the Site has all along been used by villagers.

## 11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary convenience store for a period of 5 years in “REC” zone. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public, and encourages the development of active and/or passive recreation and tourism/eco-tourism. While the proposed temporary convenience store is not entirely in line with the planning intention of the “REC” zone, there is no known long-term development at the Site. Approving the application on a temporary basis would not frustrate the long-term planning intention of the Site.
- 11.2 According to the applicant, the proposed convenience store is to serve the locals in the area. The proposed development comprising a single-storey structure is considered not incompatible with the surrounding land uses including the residential developments and holiday camp in its vicinity (**Plan A-2**).
- 11.3 In view of the nature and small-scale of the proposed convenience store, it would unlikely cause significant adverse traffic, environmental, drainage, ecological, landscape and fire safety impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, DAFC, D of FS and CTP/UD&L of PlanD. Approval conditions on traffic, drainage and fire safety requirements are recommended in paragraphs 12.2 (b) to (g) below as per the advice of these departments. To mitigate the potential environmental impacts of the proposed development on the surrounding areas, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” if the application is approved.
- 11.4 34 objecting public comments were received during the statutory public inspection period of the application as detailed in paragraph 10. The planning assessment and departmental comments above are relevant. Regarding the public comment on land ownership, it should be sorted out by the applicant and concerned land owner(s) separately.

## 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 16.4.2026. 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 vehicle is allowed to queue back to or reserve onto/from public road at any time during the planning approval period;
- (c) the submission of 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 16.10.2021;
- (d) in relation to (c) 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 16.1.2022;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 16.10.2021;
- (g) in relation to (f) 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 16.1.2022;
- (h) if any of the above planning conditions (a), (b) or (e) 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
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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' reference:

the proposed development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public and encourages the development of active and/or passive recreation and tourism/eco-tourism. 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 applicant.

**14. Attachments**

<b>Appendix I</b>	Application form received on 22.2.2021
<b>Appendix II</b>	Public comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2021**