

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/422

<u>Applicant</u>	: Mr. LAM Kwong Wing represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 1762 RP and 1768 in D.D. 105 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 760 m ² (including 165m ² (about 21.7%) of GL)
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”)
<u>Application</u>	: Proposed Temporary Shop and Services (Retail Shop of Automated Home Accessories) 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 of automated home accessories) for a period of 3 years. The Site falls within an area zoned “R(C)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes for the “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for open storage of vehicles without planning permission.
- 1.2 According to the layout plan (**Drawing A-1**) submitted by the applicant, ingress/egress (6m wide) to the Site is located at the northern site boundary, which is accessible to San Tam Road through a local access road (**Plan A-2**). Five structures of 1 to 2 storeys (3.5 to 6m in height) with a total floor area of about 760m² are proposed at the Site (including 1 structure for retail shop, 1 structure for site office, 2 structures for water tank/pump room for fire service installations (FSIs) and a toilet). Besides, 2 parking spaces (5m x 2.5m) for private car and a loading/unloading space (7m x 3.5m) for light goods vehicle will be provided with vehicle manoeuvring space next to the ingress/egress of the Site. The operation hours are between 9:00 a.m. to 7:00 p.m. daily (including

public holidays).

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

- (a) Application form received on 20.4.2021. **(Appendix I)**
- (b) Further Information (FI) received on 24.5.2021 providing **(Appendix Ia)** responses to departmental comments. *

*Remark: * accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) The proposed development is a Column 2 use in “R(C)” zone. It is a temporary use for a period of 3 years which would not jeopardise the long term planning intention. The Site is currently occupied for parking of vehicle. The proposed temporary shop and services (retail shop of automated home accessories) use would benefit the nearby residents by catering their automated home accessories. It is also compatible with the surrounding environment including residential developments.
- (b) The applied use will be housed within an enclosed structure. No operation will be held during sensitive hours. The negligible increase in traffic would not aggregate the traffic condition of San Tam Road and nearby road networks. Surface U-channel will be provided at the Site. No significant traffic, noise, environmental and drainage impacts are anticipated.
- (c) Similar planning application (No. A/YL-NTM/369) for shop and services in the “R(C)” zone was granted with planning permission. Similar treatment should be granted to the current application. The applicant will comply with the approval conditions should the application be approved by the Board.

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

The applicant is not the “current land owner” of the private land within the Site 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/ Notification” requirements are not applicable.

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 Applications

- 6.1 There are four similar applications for temporary shop and services use within the same “R(C)” zone on the OZP (**Plan A-1**).
- 6.2 Applications No. A/YL-NTM/369 and A/YL-NTM/419 (on same site), A/YL-NTM/375 and A/YL-NTM/381 for temporary shop and services for sales of building materials/metalware/gardening materials were approved by the Committee between 2018 and 2021 on considerations that the developments would not frustrate the long term planning intention of the “R(C)” zone and were not incompatible with the surrounding land uses; the developments would unlikely generate any adverse impacts and there were no adverse departmental comments.
- 6.3 Details of the applications are summarised at **Appendix II**.

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

7.1 The Site:

- (a) is accessible via a local access off San Tam Road at its north; and
- (b) is currently used for open storage of vehicles without planning permission.

7.2 The surrounding areas are rural in character comprising scattered residential dwellings, shop, unused land, fallow agricultural land and some storage/open storage uses which are suspected unauthorised developments.;

- (a) to its immediate northwest is metalware shop (with previous approval (No. A/YL-NTM/375) which has been revoked). To its north and northwest across the local access are unused land and San Tin Highway;
- (b) to its immediate west are residential dwellings, storage and open storage yard of construction materials;
- (c) to its immediate south are residential dwellings and open storage of vehicles. Further south are fallow agricultural land and ruin/unused land; and
- (d) to its southeast is a storage structure and unused land.

8. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood 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 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 GL and 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) No permission is given for occupation of GL of about 165m² in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the subject application, the registered 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. 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. 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 San Tam 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) 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 San Tam Road should be approved by TD;
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam 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, 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 rail 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 “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 mainly hard paved with private car parking and a few trees of common species at the southeastern boundary of the Site. Another application (No. A/YL-NTM/375) of similar use directly adjacent to the Site at the northwest was approved on 7.12.2018. In view of the Site is not located in landscape sensitive zoning and there is no significant landscape resources within the Site, no significant landscape impact is envisaged.
- (b) In view that the Site is not located in landscape sensitive zoning and there is no prominent public frontage around the Site, it is considered not necessary to impose a landscape condition should the application be approved.
- (c) It is noted that the applicant has submitted a proposed landscape plan (**Drawing A-2**) which involves planting of 5 trees. The applicant is advised to provide at least 1m wide soil corridor and 1.2m soil depth for the new tree plantings.

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 application from the drainage operation and maintenance point of view.
- (b) The applicant shall make a drainage submission to demonstrate how rain water falling onto or flowing to the Site will be collected, conveyed and discharged. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and inverted levels of pipes/catchpits/outfalls and ground levels justifying waterflow, etc.) with supporting design calculations according to the 'Guideline on Preparation of the Drainage Proposal' available at DSD's homepage should be included. Approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) The drainage proposal submitted by the applicant is considered unacceptable from drainage operation and maintenance point of view. The applicant should make re-submission to address his comments, as detailed in **Appendix IV**.
- (d) After completion of the drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (e) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (f) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (g) No public sewerage maintained by his office is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (h) The applicant should consult DLO/YL regarding all the proposed drainage works outside the lot boundary in order to ensure unobstructed discharge from the Site in future.
- (i) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on the Site under proper maintenance at all times.

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 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) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (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 IV**.

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 27.4.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 18.5.2021, 3 opposing comments were received (**Appendix III**) from individuals raising objection mainly on the grounds that the proposed development would cause adverse environmental and traffic impacts, increase fire risks to the surrounding residential dwellings, and it seems not serving local market demand as there are only few residences nearby.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (retail shop of automated home accessories) for a period of 3 years at the Site zoned “R(C)”. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the applied shop and services (retail shop of automated home accessories) use is not entirely in line with the planning intention of the “R(C)” zone, it could serve the local residents nearby. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal for the Site.
- 11.2 The Site is located at the fringe of the “R(C)” zone with access connected to San Tam Road. The proposed development is not incompatible with the surrounding land uses with scattered residential dwellings, metalware shop, unused land and fallow agricultural land.
- 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 (e) below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest COP.
- 11.4 As detailed in paragraph 6, the Committee has approved 4 similar applications for temporary shop and services uses in the same “R(C)” zone. Approval of the current application is in line with the previous decisions of the Committee.

- 11.5 3 opposing 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.

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 3 years until 11.6.2024. 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 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 11.12.2021;
- (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 11.3.2022;
- (d) 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 11.12.2021;
- (e) in relation to (d) 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 11.3.2022;
- (f) if the above planning condition (a) 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 conditions (b), (c), (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 attached at **Appendix IV**.

- 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 "R(C)" zone which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board. 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

Appendix I	Application form received on 20.4.2021
Appendix Ia	FI received on 24.5.2021
Appendix II	Similar Applications
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Proposed Landscape Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**