

RNTPC Paper No. A/YL-NTM/425
For Consideration by
the Rural and New Town
Planning Committee
on 24.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/425

Applicant : Mr. NG Sze Kwan represented by R-riches Property Consultants Limited

Site : Lots 1766 RP and 1767 RP (Part) in D.D. 105 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long

Site Area : About 760 m² (including 292m² (about 38.4%) of GL)

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

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

Zoning : “Residential (Group C)” (“R(C)”)

Application : Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services 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 occupied by the applied use without planning permission.
- 1.2 The Site is the subject of a previous application (No. A/YL-NTM/375) (**Plan A-1**) submitted by the current applicant for temporary shop and services (metalware shop) for a period of 3 years which was approved on 7.12.2018, but the planning approval was revoked on 7.5.2021 due to non-compliance with approval conditions on implementation of drainage, fire service installations (FSIs) and landscape proposals.
- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, 2 ingresses/egresses (about 4.2m and 7.2m wide) are proposed at the northern boundary of the Site, which are accessible to San Tam Road through a local

access road (**Plans A-1 and A-2**). 13 structures of 1 to 2 storey (2.6 to 5.6m) in height (including 7 metalware goods shops, 3 storages of metalware goods, 1 caretaker office, 1 site office and 1 rainshelter) with a total floor area of about 675.75m² are proposed at the Site. Besides, 1 parking space (5m x 2.5m) for private car at the western portion of the Site and 2 loading/unloading spaces (7m x 3.5m) for light goods vehicle with a vehicle manoeuvring space will be provided at the eastern portion. The operation hours of the shop are between 9:00 a.m. to 6:00 p.m. daily (including public holidays).

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

- (a) Application form received on 27.7.2021. **(Appendix I)**
- (b) Supplementary information received on 3.8.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 9.9.2021 providing **(Appendix Ib)** 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 Ib**. They can be summarised as follows:

- (a) The application is only on a temporary basis which will not jeopardise the long term planning intention of the “R(C)” zone. The metalware shop can serve the nearby workshops and residents.
- (b) The Site is covered by a previous application (No. A/YL-NTM/375) for the same use by the same applicant approved by the Board on 7.12.2018, of which the planning approval was revoked on 7.5.2021 due to non-compliance with approval conditions on implementation of drainage, FSIs and landscape proposals. The applicant explained that the non-compliance of the approval conditions were due to the outbreak of COVID-19 and awaiting for the approval of STW from Lands Department (LandsD).
- (c) Adverse traffic impact is not anticipated due to the development. Staff member is required to take public transport to San Tam Road and walk to the Site. Advanced appointment for visitors is required which has been adopted since the previous application (No. A/YL-NTM/375). Sufficient manoeuvring space is provided within the Site to ensure no queuing and turning back outside the Site. No medium or heavy goods vehicles are allowed to be parked/stored on or enter/exit the Site.
- (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 Director of Environmental Protection (DEP). No significant traffic, environmental, landscape and drainage impacts are anticipated with adequate mitigation measures.

- (e) 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 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**

- 5.1 The Site is involved in a previous application (No. A/YL-NTM/375) submitted by the same applicant for proposed temporary shop and services (metalware shop) which was approved on 7.12.2018¹ as the application would not frustrate the long term planning intention of the “R(C)” zone; the development was not incompatible with the surrounding land uses; it would unlikely generate any adverse environmental, traffic, drainage, fire safety and landscape impacts and there were no adverse departmental comments. Approval conditions relating to submission of drainage, FSIs and landscape proposals had been fulfilled, but the planning approval was revoked on 7.5.2021 due to non-compliance with the conditions on implementation of the drainage, FSIs and landscape proposals.

- 5.2 Details of the application are summarised at **Appendix II**.

6. **Similar Applications**

- 6.1 There are 5 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 419 (same site as A/YL-NTM/369), 381, 422 and 423 for temporary shop and services for sales of building materials/gardening materials/automated home accessories 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

¹ As compared with the previous approved application, the layouts of both applications are largely the same while the previous application has a site area of 823m² and GFA of 389m².

generate any adverse impacts and there were no adverse departmental comments.

6.3 Details of the applications are summarised at **Appendix III**.

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 occupied by the applied use 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 north across the local access are unused land and San Tin Highway;
- (b) to its east and southeast are a temporary shop and services (retail shop of automated home accessories) with planning approval (No. A/YL-NTM/422), open storage yard of vehicles, residential dwellings, storage use and ruin/unused land;
- (c) to its south are vehicle parking and some residential dwellings. Further south are fallow agricultural land and unused land; and
- (d) to its west are residential dwellings and storage use. Further southwest are open storage yard of construction materials, a residential 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) A portion of the GL (about 231m²) of the Site is covered by a Short Term Tenancy (STT) No. 3249 for the purpose of “Temporary Shop and Services (Metalware Shop)”.
- (c) No permission is given for occupation of the remaining GL of about 61m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (d) The private land of Lots Nos. 1766 RP and 1767 RP in D.D. 105 are covered by Short Term Waiver (STW) No. 5116 to permit structures for the purpose of “Temporary Shop and Services (Metalware Shop)”.
- (e) Should planning approval be given to the subject planning application, the STT/STW holders will need to immediately apply to his office for modification of the STT/STW conditions where appropriate. The applicant has to either exclude the remaining GL from the Site or apply for a formal approval prior to the actual occupation of the remaining 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):

He has no 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) San Tam Road is maintained by HyD (**Plan A-2**).
- (b) The proposed access arrangement of the Site from San Tam Road should be approved by TD.

- (c) If the access arrangement is agreed by TD, the applicant should provide the run in/out at San Tam Road to the satisfaction of TD and HyD in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of DEP:

The applicant is advised to follow the environmental mitigation measures and requirements in the latest COP issued by DEP.

Landscape

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

- (a) The Site is subject to a previous application (No. YL-NTM/375) for similar use which he had some reservation from landscape point of view, but was approved by the Committee on 7.12.2018. With reference to the site photos, the Site is mainly hard paved with temporary structures. There is no significant vegetation observed within site boundary. 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.

Drainage

9.1.6 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 drainage proposal submitted by the applicant is acceptable from drainage operation and maintenance point of view. The applicant shall provide DSD a set of latest record photographs showing the completed drainage works (including the internal condition of the drains) with the 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.

- (c) His detailed comments are at **Appendix V**.

Fire Safety

9.1.7 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. The FSIs proposal submitted by the applicant is considered not acceptable. His detailed comments on the submitted FSIs proposal are at **Appendix V**. Therefore, the applicant is advised to submit the revised FSIs proposal 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

9.1.8 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 V**.

Others

- 9.1.9 Comments of the Chief Engineer, North Development Office, Civil Engineering and Development Department (CEDD):

The Site is within the proposed boundary of San Tin/Lok Ma Chau Development Node (STLMC DN). According to the latest tentative development program of STLMC DN, the construction work and land resumption will commence after the Finance Committee of Legislative Council funding approval tentatively by 2025. Thus, the Site, within the boundary of STLMC DN, will probably be required for timely clearance and construction.

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

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Commissioner of Police;
- (e) Project Manager (West), CEDD;
- (f) Head of Geotechnical Engineering Office, CEDD; and
- (g) District Officer (Yuen Long), Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 10.8.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 31.8.2021, one comment was received (**Appendix IV**) from an individual objecting to the application mainly on the grounds that the applied use would cause adverse environmental impacts and the applicant failed to comply with the approval conditions of the last application.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services 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 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.

- 11.2 The Site is located at the fringe of the “R(C)” zone with access connected to San Tam Road. The development is not incompatible with the surrounding land uses with scattered residential dwellings, shop, unused land and fallow agricultural land.
- 11.3 The development would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments including C for T, CHE/NTW of HyD, 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, CHE/NTW of HyD, CE/MN of DSD and D of FS can be imposed as the approval conditions recommended in paragraphs 12.2 (a) to (g) below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest COP to minimise any potential environmental impacts.
- 11.4 Previous approval had been granted to the current applicant for similar shop and services use (metalware shop) at the Site (No. A/YL-NTM/375). The applicant had fulfilled the approval conditions relating to submission of drainage, FSIs and landscape proposals. However, the approval was revoked on 7.5.2021 due to non-compliance with approval conditions on implementation of these proposals. The applicant has explained that the drainage and FSIs works were delayed due to the COVID-19 and time needed for STW approval from LandsD, and the landscape works will be completed after the implementation of drainage work so as to minimise the adverse impact to the trees. The applicant has included drainage, FSIs and landscape proposals to support the current application. While D of FS considers the FSIs proposal not acceptable, he has no objection to the current application. CE/MN of DSD and CTP/UD&L of PlanD also have no objection to the application. Sympathetic consideration may therefore be given to the current application. However, shorter compliance periods are recommended to closely monitor the progress of compliance with the approval conditions if the current application is approved. Moreover, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 11.5 As detailed in paragraph 6, the Committee has approved 5 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.
- 11.6 One opposing public comment was 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 comment 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 24.9.2024. 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 design of run in/out at San Tam Road within **3** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 24.12.2021;
- (c) the provision of run-in/run-out at San Tam Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 24.3.2022;
- (d) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.12.2021;
- (e) 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 **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.12.2021;
- (g) in relation to (f) above, the implementation 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 24.3.2022;
- (h) if any of the above planning conditions (a) 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 (b), (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 V**.

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

the 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 27.7.2021
Appendix Ia	Supplementary information received on 3.8.2021
Appendix Ib	FI received on 9.9.2021
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Public comment
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**