

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/427

Applicant : Mr. TANG Wai Ip

Site : Lot 2616 (Part) in D.D. 104, Ngau Tam Mei, Yuen Long

Site Area : About 1,719.6m²

Lease : Block Government Lease (demised for agricultural use)

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

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

Application : Proposed Temporary Shop and Services with Ancillary Offices, Car Parking Spaces and Store Rooms 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 with ancillary offices, car parking spaces and store rooms for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes for the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, fenced off and occupied by some temporary structures with parking of vehicles.
- 1.2 The Site is the subject of four previous applications (No. A/YL-NTM/234, 285, 374 and 386) (**Plan A-1b**). The last two applications (No. A/YL-NTM/374 and 386) were submitted by the current applicant for similar use (real estate office and transportation office with ancillary car park and storage) for a period of 3 years which were approved by the Rural and New Town Planning Committee (the Committee) on 16.11.2018 and 22.3.2019 respectively. The planning approval for the two applications was revoked on 16.5.2019 and 22.8.2021 respectively due to non-compliance with approval conditions.
- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, the ingress/egress is located at its northern boundary directly accessible to Ngau Tam Mei Road (**Plan A-2**). 11 one-to-two-storey structures (not more than 6.4m in height) with a total floor area of about 383.23m² are proposed at the Site, including shops/offices providing transportation, landscape design and financial services,

storage rooms, an electric meter room as well as open sheds and a canopy. 9 private car and 5 light goods vehicle (LGV) parking spaces will be provided. The operation hours are between 9:00 a.m. and 6:00 p.m. daily (including public holidays). Compared with the last approved application No. A/YL-NTM/386, the current application proposes different types of shop and services, involving a larger site area, slight increase in GFA, 4 more private car parking spaces with same building height and operational hours.

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

- (a) Application Form with Attachment received on **(Appendix I)**
23.9.2021
- (b) Supplementary Information received on 5.10.2021 **(Appendix Ia)**
- (c) Further Information (FI) received on 5.11.2021 **(Appendix Ib)**
providing 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, Ia and Ib**. They can be summarised as follows:

- (a) the proposed development is a Column 2 use within the “R(D)” zone and is only temporary in nature. It will not frustrate the long-term planning intention of the “R(D)” zone;
- (b) the use, form and layout of the proposed development are not incompatible with the surrounding environment. The landscape and drainage works of the proposed development would enhance the surrounding area. There will be no public announcement system to be used on-site;
- (c) The ancillary car park is to serve the staff and visitors. The trip generation is low and would not cause adverse traffic impact. No vehicle is allowed to queue back to or reverse onto/from the Site at any time. Only private cars and LGVs are allowed to enter the Site. No vehicles over 7m in length would be allowed to enter the Site;
- (d) the Site is subject to previous approved applications (e.g. A/YL-NTM/285, 374 and 386) for similar uses, and similar applications (A/YL-NTM/290 and 424) within the same “R(D)” zone were also approved by the Board before. Approval of the application is in line with the Board’s decisions; and
- (e) though the planning permission of the last application (A/YL-NTM/386) was revoked as the information required to discharge the approval condition could not be submitted on time, the drainage proposal has already been implemented on-site. If the current application is approved, the applicant will expedite the process of compliance with approval conditions.

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

The applicant is not the “current land owner” but 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 (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site 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 Applications

- 5.1 The Site is the subject of 4 previous approved applications (No. A/YL-NTM/234, 285, 374 and 386) (**Plan A-1b**).
- 5.2 A/YL-NTM/234 and 285 were submitted by a different applicant for similar temporary real estate office with ancillary car park/temporary real estate office and transportation office with ancillary car parks and storages respectively for periods of 3 years. They were approved with conditions by the Committee in 2009 and 2013 respectively mainly for the reasons that approval of the applications would not frustrate the long-term planning intention of the zone, the developments were not incompatible with the land uses of the surrounding areas, and relevant government departments generally had no adverse comments on the applications. A/YL-NTM/285 was revoked due to non-compliance with approval conditions in relation to the submission and implementation/provision of drainage and FSIs proposal.
- 5.3 A/YL-NTM/374 and 386 were submitted by the current applicant for similar temporary shop and services (real estate office and transportation office) with ancillary car park and storage for a period of 3 years which were approved with conditions by the Committee in 2018 and 2019 respectively mainly for same reasons as set out in para. 5.2 above. A/YL-NTM/386 applied for the inclusion of LGV parking spaces at the Site. As the applicant did not pursue the approved scheme under A/YL-NTM/374 upon approval of A/YL-NTM/386, it was eventually revoked on 16.5.2019 due to non-compliance with all approval conditions. On 22.8.2021, A/YL-NTM/386 was revoked due to non-compliance with approval conditions in relation to the provision/implementation of boundary fence, drainage proposal and FSIs.
- 5.4 Details of the applications are summarised at **Appendix II**.

6. Similar Applications

- 6.1 There are two similar applications for temporary shop and services use within the same “R(D)” zone on the OZP (**Plan A-1a**).

6.2 Applications No. A/YL-NTM/290 and 424 for temporary real estate office/retail shop of building materials for a period of 3 years were approved by the Committee in 2013 and 2021 respectively on considerations that the developments would not frustrate the long term planning intention of the “R(D)” 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 III**.

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

7.1 The Site is:

- (a) hard-paved, fenced off and occupied by some temporary structures with parking of vehicles; and
- (b) accessible directly from Ngau Tam Mei Road.

7.2 The surrounding areas have the following characteristics;

- (a) to its north across Ngau Tam Mei Road is a low-rise private residential development – La Maison Vineyard, some other residential dwellings, two open storage yards for construction machinery and materials/parking of vehicles, and a shrine in “Residential (Group C)” zone;
- (b) to its immediate east is the Yau Tam Mei San Tsuen with a cluster of residential dwellings in temporary structures;
- (c) to its south are an abandoned meander, grassland and a nullah, and to its further south across Chun Shin Road are a pond, grass land and vacant land; and
- (d) to its immediate west are a storage yard, an open storage yard (covered by application no. A/YL-NTM/424 for temporary shop and services (retail shop of building materials)) and a residential dwelling.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) the Site comprises an Old Scheduled Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government;
 - (b) the subject lot is covered by a Short Term Waiver (STW) No. 5115 to permit structures for the purposes of “Temporary Shop and Services (Real Estate Office and Transportation Office) with Ancillary Car Park and Storage”; and
 - (c) should planning approval be given to the application, the STW owner will need to apply to his office for modification of the STW conditions where appropriate. Given the proposed use is temporary in nature, only application for regularization 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 premium or fee, as may be imposed by LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) he has no adverse comment from traffic engineering perspective;
 - (b) prohibition of vehicles longer than 7m entering Ngau Tam Mei Road from San Tam Road is currently implemented. Only private car or LGV not exceeding 7m length are allowed to access the Site;
 - (c) no vehicle is allowed to queue back to or reverse onto/from the Site 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 commented and approved by TD;
 - (b) his department shall not be responsible for the maintenance of any access connecting the Site and Ngau Tam Mei Road; and

- (c) 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 the Director of Environmental Protection (DEP):

- (a) he has no objection to the application; and
- (b) 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

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) the site is the subject of 4 previous planning applications. The last application (No. A/YL-NTM/386) for similar use with smaller site area, which was approved (with conditions) by the Committee on 22.3.2019, was revoked on 22.8.2021 due to non-landscape related issues;
- (c) with reference to the aerial photo of 2020, there is no significant change in the landscape character for adjacent area since the last application (No. A/YL-NTM/386). According to the site visit on 25.10.2021, existing common trees species in fair condition are observed at the periphery of the Site. According to the layout plan of the application form, significant adverse impact on landscape resources within the Site is not anticipated;
- (d) since the Site is surrounded by existing trees as buffer planting and significant adverse impact arising from the proposed development is not anticipated, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board; and
- (e) the applicant should be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the work.

Nature Conservation

- 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) he has no comment on the current application from nature conservation perspective as the Site has been paved and used for similar purpose for a number of years and the current application is similar to its previous application approved by the Board; and
 - (b) there is a retained meander located to the south of the Site. Should the application be approved, the applicant should be reminded to avoid disturbing the vegetation on the embankment of the meander and adopt necessary measures to prevent polluting the meander during operation.

Drainage

- 9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) he has no comments on the submitted drainage proposal, and has no objection in-principle to the proposed development from the public drainage point of view; and
 - (b) should the Board consider that the application acceptable, conditions should be stipulated in the approval letter requiring the applicant to implement and maintain the drainage proposal for the development to the satisfaction 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 FSIs being provided to his satisfaction;
 - (b) the submitted FSI proposal is considered acceptable to his Department;
 - (c) the applicant shall be reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
 - (d) his detailed comments are at **Appendix V**.

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;
- (b) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application;
- (c) for UBW erected on leased land, enforcement action may be taken by the Buildings Department 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 application site under the BO; and
- (d) his detailed comments are at **Appendix V**.

9.2 The following government departments have no objection to/adverse comment on the application:

- (a) District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD)
- (b) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD2-2, RDO, HyD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police (C of P);
- (e) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD); and
- (f) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD).

10. Public Comment Received During Statutory Publication Period

On 8.10.2021, the application was published for public inspection. During the three-week statutory publication period, which ended on 29.10.2021, 2 public comments were received from individuals. One comment is objecting to the application for reasons that the vehicle parking use at the Site would cause adverse traffic, environmental and fire safety impacts, and another comment is raising concern on the revocation history of the Site due to non-compliance with approval conditions (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for the proposed temporary shop and services with ancillary offices, car parking spaces and store rooms for a period of 3 years at the Site. The Site falls within “R(D)” zone which is intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and for low-rise, low-density residential developments subject to planning permission from the Board. Although the proposed temporary shop and services use is not entirely in line with

the planning intention of the “R(D)” zone, it could serve the nearby residents and the local community. 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(D)” zone as there is no immediate permanent development proposal for the Site.

- 11.2 The proposed use is not incompatible with the surrounding environment comprising mainly low-rise low density residential dwellings to its north and east, and a village environment within area zoned “V” to its farther east, scattered open storage yards and grassland/vacant land in vicinity. 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. The proposed development would unlikely cause significant adverse impacts on the area. 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 below. The applicant will also be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.3 There are 4 previous applications for similar uses at the Site which were all approved with conditions by the Committee. The last two applications No. A/YL-NTM/374 and 386 submitted by the current applicant were approved in 2018 and 2019 respectively for reasons as set out in para. 5, although both were subsequently revoked due to non-compliance with approval conditions. A/YL-NTM/374 was revoked as the applicant did not pursue the scheme upon approval of a revised scheme under A/YL-NTM/386. As for A/YL-NTM/386, the applicant explains that it was revoked as the relevant information could not be submitted on time while the required works of drainage proposal has already been implemented on-site. The applicant has submitted drainage and FSI proposals to support the current application which are considered acceptable by the relevant departments, and he points out that he would expedite the process of compliance with conditions if the application is approved. Having regard to the above, sympathetic consideration may therefore be given to the current application. Since the last 2 approvals were revoked due to non-compliance with approval conditions, shorter compliance periods are proposed to monitor the progress of compliance should the Committee decide to approve the application. Furthermore, the applicant would be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.4 As detailed in para. 6, the Committee has approved 2 similar applications for temporary shop and services uses in the same “R(D)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 2 public comments objecting to/raising concerns on the application were received during the statutory public inspection period as detailed in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 12.11.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars or light goods vehicles not exceeding 7m length, as proposed by the applicant, are allowed to access or be parked at the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the implementation of the accepted 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 12.5.2022;
- (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 implementation of the accepted fire service installation 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 12.5.2022;
- (g) if any of the above planning conditions (a), (b), (c) 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
- (h) if any of the above planning conditions (d) 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 at **Appendix V**.

- 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been

given in the submission to justify 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 with Attachment received on 23.9.2021
Appendix Ia	Supplementary Information received on 5.10.2021
Appendix Ib	FI received on 5.11.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plans A-1a & 1b	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2021**