

RNTPC Paper No. A/YL-NTM/461
For Consideration by the
Rural and New Town
Planning Committee
on 28.7.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/461

<u>Applicant</u>	: Low Vui Man represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 2613 RP (Part) in D.D. 104 and Adjoining Government Land (GL), Nagu Tam Mei, Yuen Long
<u>Site Area</u>	: About 868 m ² (including 11m ² (about 1.3%) of GL)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<u>Zoning</u>	: Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio (PR) of 0.2 and a maximum building height (BH) of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Shop and Services (Retail Shop for Selling Building Materials) 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 for selling building materials) 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 paved, fenced off, and occupied by some container-converted structures and open storage of construction materials without planning permission. (**Plans A-2 and A-4**)
- 1.2 According to the layout plan (**Drawing A-2**) submitted by the applicant, ingress/egress (8m wide) of the Site is located at its northern site boundary, which

is accessible to Ngau Tam Mei Road through a local access (**Plan A-2**). Three single-storey structures (about 3 to 4.5m in height) with a total gross floor area of about 258m² for retail shop, electricity metre room and toilet are proposed at the Site. Two 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. The operation hours of the proposed retail shop are between 9:00 a.m. and 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 with attachments received on 7.6.2023 (**Appendix I**)

(b) Further Information (FI) received on 20.7.2023 and 24.7.2023[#] (**Appendix Ia**)

[#] *exempted from publication requirement*

2. **Justifications from the Applicant**

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

- (a) The proposed temporary shop and services (retail shop for selling building materials) is for selling building materials to the nearby residents, including metal ware and hand tools for home fitting purpose. The proposed temporary use would benefit the nearby residents, especially the low density housing in the adjoining area, by catering their demand for building materials. The proposed temporary use for a period of three years will not jeopardise the long-term planning intention of the “R(D)” zone. It is also not incompatible with the surrounding environment including residential developments.
- (b) The proposed temporary use will have minimal traffic impact. The proposed use will be housed within an enclosed structure and no operation will be held during sensitive hours. No workshop activity will be carried out at the Site at all times. Surface U-channel will be provided at the Site. No significant noise, environmental and drainage impacts are anticipated.
- (c) Similar planning application (No. A/YL-NTM/427) for shop and services use in the “R(D)” zone was granted with planning permission. Similar treatment should be granted to the current application. The applicant is the latest occupier of the Site and will comply with approval conditions imposed by the Committee. Upon approval of the planning application, application for short term waiver (STW) will be submitted to Lands Department.

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

The applicant is not a “current land owner” of the Site 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 (TPB PG-No. 31A) by posting site notice and sending the notice to relevant owners’ corporation(s)/ owners’ committee(s)/ mutual aid committee(s)/ management office(s) or 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 currently not subject to active planning enforcement action. Should there be sufficient evidence that the current use at the Site constitutes an unauthorised development under the Town Planning Ordinance, appropriate enforcement action would be considered.

5. **Previous Application**

The Site is the subject of a previous application (No. A/YL-NTM/424) for proposed temporary shop and services (retail shop of building materials) submitted by a different applicant, which was approved by the Committee for a period of 3 years on 27.8.2021 (**Plan A-1**). The application was approved mainly on the considerations that the proposed development could serve the local residents nearby and was considered not incompatible with surrounding land uses, and it would unlikely cause significant adverse impacts on the area. The application was subsequently revoked on 27.5.2023 due to non-compliance with approval conditions on implementation of drainage proposal and fire service installations proposal. Details of the application is summarised in **Appendix II**.

6. **Similar Applications**

- 6.1 During the past five years, there are three similar applications for temporary shop and services use within the same “R(D)” zone on the OZP (**Plan A-1**).
- 6.2 Applications No. A/YL-NTM/374 and 386 for temporary shop and services (real estate office and transportation office) with ancillary car park and storage and application No. A/YL-NTM/427 for temporary shop and services with ancillary offices, car parking spaces and store rooms were approved by the Committee between 2018 to 2021 mainly for similar reasons as set out in paragraph 5 above. Applications No. A/YL-NTM/374 and 386 were subsequently revoked on

16.5.2019 and 22.8.2021 respectively due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II**.

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

7.1 The Site is:

- (a) accessible via a local access off Ngau Tam Mei Road from its north; and
- (b) currently paved, fenced off and occupied by some container-converted structures and open storage of construction materials without planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is unused land. To its further north across Ngau Tam Mei Road is a low-rise private residential development (La Maison Vineyard), a residential dwelling and an open storage yard;
- (b) to its east are structures for storage, grass land, residential dwellings and a site for shop and services use with valid planning permission (No. A/YL-NTM/427);
- (c) to its immediate south is grass land. To its further south across the nullah and Chun Shin Road are a pond and a site with valid planning permission for proposed house (No. A/YL-NTM/377); and
- (d) to its west across San Tam Road and San Tin Highway are a restaurant with ancillary car park and grass land.

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 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory

comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department has adverse comments on the application.

Land Administration

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

- (a) He has adverse comments on the application;
- (b) The Site comprises an Old Schedule Agricultural Lot (OSAL) and GL. The OSAL is 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;
- (c) No permission is given for occupation of GL in the Site (about 11m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed;
- (d) LandsD has grave concerns given that there are unauthorized building works (UBW) and/or uses on Lot No. 2613 RP in D.D. 104 which are already subject to lease enforcement actions according to case priority. The lot owner should remedy the lease breaches as demanded by LandsD; and
- (e) Advisory comments as detailed in **Appendix IV**.

10. Public Comments Received During Statutory Publication Period

On 16.6.2023, the application was published for public comment. During the first three weeks of the statutory public inspection period, two public comments were received (**Appendix V**) from individuals objecting to the application on the grounds that the proposed development will have adverse traffic impact and generate noise and environmental nuisance to the area; it will affect the operation of the nearby refuse collection point (RCP) at Ngau Tam Mei Road; and the approval conditions of a previous application were not complied with.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (retail shop for selling building materials) for a period of 3 years at the Site within "R(D)" zone on the OZP. 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. Although the proposed temporary use is not entirely in line with the planning intention of the “R(D)” zone, the proposed temporary shop and services could serve the local residents nearby and there is no immediate permanent development proposal for the Site, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 The Site is located at the fringe of the “R(D)” zone and within a short distance from Ngau Tam Mei Road and San Tam Road. The proposed development is not incompatible with the surrounding land uses with low-rise and low-density residential dwellings, shop and services uses and storage uses.
- 11.3 The proposed use would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned government departments, including Director of Environmental Protection (DEP), Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) on environmental, traffic, landscape, drainage and fire safety aspects. Should the application be approved, technical requirements of CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 12.2 below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimise any potential environmental impacts. DLO/YL of LandsD has adverse comment on the application in view of the existing UBW and/or use on the Site. In this regard, the applicant states that he will apply for STW for erection of structures at the Site. Relevant advisory clause on the need for application to LandsD for erection of structures is recommended.
- 11.4 As detailed in paragraphs 5 and 6 above, the Committee has approved a previous and three similar applications for temporary shop and services uses within the Site and in the same “R(D)” zone in the past five years. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comments 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 that the operation of the nearby RCP will be affected, the swept path analysis confirmed that vehicles can enter/leave the Site via a section of local access connecting to Ngau Tam Mei Road without affecting the RCP. An approval condition is recommended to be imposed that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments 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 28.7.2026. 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 reverse onto/from public road at any time during the planning approval period;
- (b) 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 28.1.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 28.1.2024;
- (e) the implementation of the 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 28.4.2024;
- (f) if any of the above planning condition (a) or (c) 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 condition (b), (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 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. The development is not in line with the planning intention of the “R(D)” zone. 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 renewal of the planning 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 7.6.2023
Appendix Ia	FI received on 20.7.2023 and 24.7.2023
Appendix II	Previous and similar applications
Appendix III	Government departments’ general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Location plan with proposed access
Drawing A-2	Layout plan
Plan A-1	Location plan with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos