

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/676

<u>Applicant</u>	: Yat Tin Property Management Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 25 (Part), 26 RP, 27 RP, 28 RP (Part), 29 RP (Part) and 30 RP in D.D. 121, Ping Shan, Yuen Long, New Territories
<u>Site Area</u>	: About 4,550 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
<u>Zoning</u>	: “Government, Institution or Community” (“G/IC”) (about 99%); “Residential (Group B) 1” (“R(B)1”) (about 0.4%) ¹ ; and <i>[Restricted to maximum plot ratio of 1, maximum site coverage of 40% and maximum building height of 5 storeys (15m) including car park]</i> “Village Type Development” (“V”) (about 0.6%) ¹ <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Temporary Shop and Services and Wholesale of Food Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services and wholesale of food products for a period of three years at the application site (the Site) (**Plan A-1a**) mainly zoned “G/IC” on the OZP. According to the Notes for the “G/IC” zone on the OZP, while ‘Wholesale Trade’ is a Column 1 use which is always permitted, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use without valid planning permission.
- 1.2 The Site is accessible via local track leading from Ping Kwai Road (**Plans A-2**

¹ The minor encroachment onto the “R(B)1” and “V” zones would be considered as minor boundary adjustment as permitted under the covering Notes of the OZP.

and A-3 and Drawing A-2). According to the applicant, the Site is for retail and wholesale trade of food products such as edible oil and canned food. For loading/unloading, only medium goods vehicle not exceeding 24 tonnes will be allowed to enter the Site. No vehicle repair, dismantling, car beauty, car washing or other workshop activity will be carried out at the Site. The lot index plan, location plan with vehicular access, layout plan, landscape and tree preservation plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is the subject of six previous applications including two for temporary shop for retail and wholesale of construction materials/food products which were approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2018 and 2020 respectively. (Details at paragraph 6 below).
- 1.4 Compare with the last approved application (No. A/YL-PS/607), the current application is submitted by the same applicant for the same use with changes in layout and development parameters. A comparison of the major development parameters of the current application and the last approved application is summarised as follows:

Major Development Parameters	Last Approved Application (No. A/YL-PS/607) (a)	Current Application (No. A/YL-PS/676) (b)	Difference (b) – (a)
Development/ Use	Temporary shop for retail and wholesale of food products	Temporary shop and services and wholesale of food products	No change
Site Area	4,550m ²		No change
Floor Area	2,880m ²	3,327m ²	+447m ²
No. of Structures	3 (shop, toilet, electricity meter room)	3 (shop and services and wholesale of food products and site office, toilet, electricity meter room)	No change
Height of Structures	3m to 8.5m (1 storey)	3m to 8.5m (2 storey)	No change (+1 storey)
No. of Car Parking Spaces	5 for private cars (5m x 2.5m)	5 for private cars (5m x 2.5m)	No change
No. of Loading/ Unloading Bay	1 for medium goods vehicles (11m x 3.5m)		No change
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including public holidays)		No change

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

(a) Application Form with attachments received on (Appendix I)

2.2.2023

- (b) Further Information (FI) received on 17.3.2023* (Appendix Ia)
- (c) FI received on 21.3.2023* (Appendix Ib)
- (d) FI received on 18.4.2023* (Appendix Ic)
- (e) FI received on 24.4.2023* (Appendix Id)
- (f) FI received on 11.5.2023* (Appendix Ie)

**(accepted and exempted from publication and recounting requirements)*

- 1.6 On 31.3.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicant

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

- (a) There is a strong demand for food products in the area. The proposed location allows wholesale trade so that the wholesale of food products such as edible oil and canned food is possible.
- (b) The applied development is temporary in nature. It would not jeopardise the long-term planning intentions of the concerned zones. The Site is not owned by the Government so that the acquisition of land for “G/IC” use takes time. As such, the temporary conversion of the Site for another use would be a prudent use of scarce land resource. The Board has approved similar shop and wholesale uses in “G/IC” zone within the same OZP.
- (c) The application is subject to a previous planning application No. A/YL-PS/607 approved for same use which planning permission was revoked due to non-compliance with the implementation of the fire service installations (FSIs) proposals. The applicant has submitted the FSIs proposal in support of the current application.
- (d) The applicant has provided trees, drainage channel and FSIs at the Site.

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

The applicant is not a “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 (TPB PG-No. 31A) by posting notice of the application outside the Site and sending

registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Applications

5.1 Part of the Site is involved in six previous applications for temporary vehicle park and temporary shop for retail and wholesale of construction materials and food products. Four of the applications (No. A/DPA/YL-PS/49, and A/YL-PS/52, 53 and 269) for temporary vehicle park are irrelevant to the current application. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.

5.2 Applications No. A/YL-PS/560 and 607, which were submitted by the same applicant for retail and wholesale of construction materials/food products at the same site, were approved by the Committee in 2018 and 2020 respectively mainly on considerations that the development would not jeopardise the long-term planning intention of the "G/IC" zone, not incompatible with the surrounding uses and no objection or no adverse comments from relevant government departments. However, the planning application of both applications were revoked on 15.9.2020 and 10.12.2022 respectively due to non-compliance with approval conditions regarding the submission and/or implementation of FSIs proposal.

6. Similar Applications

There is no similar application within the same "G/IC" zone.

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

7.1 The Site is:

- (a) currently occupied by a temporary structure for the applied use (**Plans A-2 and A-4a to A-4c**); and
- (b) accessible via an existing track connecting to Ping Kwai Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to the north are parking of coaches and vehicles which are suspected unauthorized development (UD) and some unused land;
- (b) to the immediate east of the Site is a temporary vehicle park with valid planning permission;

- (c) to the immediate south are open storage of solar panels and parking of vehicles which are suspected UD's. To the further south are shrubland and a residential development (La Mansion); and
- (d) to the west are a local track, Light Rail and a nullah.

8. Planning Intention

The "G/IC" zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following department has adverse comments on the application:

Environment

9.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 24m to its south) (**Plan A-2**) and environmental nuisance is expected;
- (b) should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP") issued by DEP; and
- (c) there was no environmental complaint pertaining to the Site received in the past 3 years.

10. Public Comments Received During Statutory Publication Period

On 10.2.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the ground that approval conditions of the previous application had not been fulfilled.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services and wholesale of food products for a period of three years at the Site zoned “G/IC” on the OZP. While ‘Wholesale Trade’ is always permitted within the “G/IC” zone, ‘Shop and Services’ use requires planning permission. Whilst the applied use is not entirely in line with the planning intention of the “G/IC” zone, the applied use could provide shop and services and wholesale of food product to meet any such demand in the area. Approval of the application on a temporary basis will not frustrate the long-term planning intention of the “G/IC” zone. Nevertheless, the Site falls within the study area of the potential public housing development at Ping Kwai Road, and Project Team Leader/Housing, Civil Engineering Office, Civil Engineering and Development Department (PTL/H, CEO, CEDD) advises that the applicant should note that land resumption for implementation for public housing development might take place in the near future. Should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of the potential public housing development at Ping Kwai Road.
- 11.2 The applied development is not entirely incompatible with the surrounding uses including temporary vehicle parks, open storage use and residential use (**Plan A-2**).
- 11.3 Relevant government departments, including the Commissioner for Transport, Chief Highway Engineer/North Territories West, Highways Department, Chief Engineer/Mainland North, Drainage Services Department, Chief Town Planner/Urban Design & Landscape Section of Planning Department and Director of Fire Services, have no objection to or adverse comment on the application. The applied use will unlikely create significant adverse traffic, drainage, landscape and fire safety impacts on the surrounding areas. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential dwelling about 24m to the south of the Site) (**Plan A-2**) and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past three years. To address the concerns on potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “COP” to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The last two previous applications (No. A/YL-PS/560 and 607) for similar use at the same site as the current application submitted by the same applicant were approved by the Committee in 2018 and 2020. However, both applications were revoked in 2020 and 2022 (**Appendix II**) due to the non-compliance with time-

limited approval condition(s) related to the FSIs proposal. In this regard, the applicant has submitted a FSIs proposal for the current application, which is considered acceptable by D of FS, and provided justifications for the non-compliance with the implementation of the FSIs proposals under the previous application No. A/YL-PS/607, i.e. due to changes in internal layout after the acceptance of the submission of FSIs proposal. As such, sympathetic consideration may be given to the current application. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of the planning permission, sympathetic consideration would not be given to any further application unless under very special circumstances.

- 11.5 Given that two previous applications for similar use at the Site were approved (**Plan A-1b**), approval of the current application is in line with the previous decisions of the Committee.
- 11.6 There is one public comment objecting to the application during the statutory publication period as summarised on paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 above, 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 three years until 19.5.2026. 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 medium and heavy goods vehicles exceeding 5.5 tonnes, including container trailers/tractors, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- ~~(a)~~ (c) the submission of a condition record of the existing drainage facilities 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 **19.8.2023**;
- ~~(b)~~ (d) in relation to ~~(b)~~(c) above, the existing drainage facilities shall be maintained at all times during the planning approval period;

- ~~(e)~~ (e) 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 **19.2.2024**;
- ~~(d)~~ (f) if any of the above planning conditions (a), (b) ~~(e)~~ or (d) 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
- ~~(e)~~ (g) if the above planning conditions (c) **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' reference:

The development is not in line with the planning intention of the "G/IC" zone which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. 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 2.2.2023
Appendix Ia	Further Information (FI) received on 17.3.2023
Appendix Ib	FI received on 21.3.2023
Appendix Ic	FI received on 18.4.2023
Appendix Id	FI received on 24.4.2023
Appendix Ie	FI received on 11.5.2023
Appendix II	Previous Applications

Appendix III	Government Departments General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Lot Index Plan
Drawing A-2	Location Plan
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Landscape and Tree Preservation Plan
Drawing A-5	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
MAY 2023**