

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/518

<u>Applicant</u>	: Mr. TING Wai Keung represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1627 (Part) in D.D. 119, Yuen Long, New Territories
<u>Site Area</u>	: 780 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17
<u>Zoning</u>	: “Government, Institution or Community (1)” (“G/IC(1)”) <i>[Restricted to a maximum building height of 8 storeys]</i>
<u>Application</u>	: Proposed 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 proposed temporary shop and services for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “G/IC” zone, ‘Shop and Services (not elsewhere specified)’ is Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by storage of assorted items without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is intended for a retail shop for vehicle spare parts (including batteries, windscreen wipers, car audios, GPS systems and car cameras). Moreover, only light goods vehicle (LGV) not exceeding 5.5 tonnes will be allowed to enter/park at the Site for the convenience of staff and clients. Plans showing the vehicular access to the Site, site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 780 m ²
Total Floor Area (Non-domestic)	About 248 m ²
No. and Height of Structures	2 • one for shop and services and toilet (4m,

	1 storey) • one for rain shelter (4m, 1 storey)
No. of Parking and Loading/unloading Spaces	3 • two for private car (5m x 2.5m each) • one for LGV (7m x 3.5m)
Operation Hours	9:00 a.m. to 5:00 p.m., with no operation on Sundays and public holidays

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

- (a) Application Form with annexes and plans received on 2.2.2021 (**Appendix I**)
- (b) Further Information (FI) dated 1.3.2021 in response to departmental comments (**Appendix Ia**)
[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 the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The proposal is temporary in nature and would not jeopardise the long-term planning intention of the “G/IC(1)” zone. Similar shop and services have been approved by the Board in rural Yuen Long. The nature and form of the proposal is not incompatible with the surrounding environment.
- (b) The Site is currently occupied for open storage of construction materials, approval of the proposal would help curb suspected unauthorised development (UD) at the Site. A good number of open storage yards and warehouses were found in the “G/IC(1)” zone and approval of the proposal would curb the situation.
- (c) There will be minimal impacts arising from the proposal.

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 a notice at the Site and sending the notice to the Shap Pat Heung Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

Part of the Site is subject to planning enforcement action against UD’s involving workshop use and storage use. Enforcement Notices (ENs) were issued to the concerned parties on 21.3.2019 and 8.12.2020 requiring discontinuation of the UD’s (**Plan A-2**). Upon expiry of the ENs, the UD’s on the Site have not been discontinued. Further enforcement action is being considered for the cases.

5. Previous Application

There is no previous application within the Site.

6. Similar Application

There is no similar application within the subject “G/IC(1)” zone.

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

7.1 The Site is:

- (a) accessible from Kiu Hing Road to its west via a local track;
- (b) paved and fenced off; and
- (c) currently occupied by storage of assorted items without valid planning permission.

7.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4**):

- (a) rural fringe in nature comprising predominately open storage/storage yards, warehouses and scattered residential structures, car parks, ruin, agricultural land, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 20m to its southwest;
- (c) to the north, east and southwest of the Site are areas zoned “Village Type Development”, “Agriculture” and “Residential (Group D)” respectively on the OZP; and
- (d) except for one warehouse to its west, the other open storage/storage yards, warehouses and car parks in the vicinity of the Site are mostly suspected UD's subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community (GIC) 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 The following government departments have been consulted and their views on the application and public comments, where relevant, 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 Schedule Agricultural Lot 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) Should planning approval be given to the application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to regularise any irregularities on site, if any. 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 her department 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 her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Kiu Hing Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kiu Hing Road.

Environment

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

- (a) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should 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 Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (**Drawing A-3**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix IV**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (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. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Long-Term Development

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Education” (“E”) and partly within an area shown as ‘Road’.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) The Site falls within the boundary of YLS Development – Stage 2 Phase 2 (the project). The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.

9.1.10 Comments of the Secretary for Education (SED):

He has no comment from education point of view, on the understanding that it is a temporary application lasting for 3 years and CEDD will conduct site clearance in accordance with the YLS Development programme.

District Officer’s Comments

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has received one comment from the village representative of Muk Kiu Tau Tsuen objecting to the application on the grounds that the application will cause adverse environmental hygiene, traffic and drainage

impacts and generate vice activities on the surrounding area (**Appendix II**).

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 9.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments were received from individuals. One individual objected to the application on the grounds that the application will cause adverse environmental and fire safety impacts on the surrounding area (**Appendix III-1**). The other individual objected to the application on the grounds that the application would legitimise the unapproved use and that approval would undermine the implementation of the intended GIC use (**Appendix III-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at a site zoned “G/IC(1)” on the OZP. Although the proposed use is not entirely in line with the planning intention of the “G/IC” zone, which is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory, the proposal could meet any such demand for shop and services in the area. Whilst the Site falls partly within an area zoned “E” and partly within an area shown as ‘Road’ on the Revised RODP of YLS, PM(W), CEDD and SED have no objection to the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Nevertheless, should the application be approved, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.
- 11.2 The surrounding area comprises predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the local concern and technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas, and to note that the planning

permission does not condone any other development/use not covered by the application.

- 11.4 There are three public comments received on the application as summarised in paragraphs 9.1.11 and 10 above. The planning considerations and assessments in paragraph 11.1 to 11.3 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraphs 9.1.11 (relayed by DO(YL), HAD) and 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 3 years until 26.3.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles, including container tractor/trailers, 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (f) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) 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 26.9.2021;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) 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 26.9.2021;
- (j) in relation to (i) above, 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 26.12.2021;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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
- (l) if any of the above planning conditions (g), (i) or (j) 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 IV**.

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

the proposed use is not in line with the planning intention of the "G/IC" zone which is 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 with annexes and plans received on 2.2.2021
Appendix Ia	FI dated 1.3.2021
Appendix II	Public comment relayed by DO(YL), HAD
Appendices III-1 and III-2	Public comments received during the statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan

Drawing A-3	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**