

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATIONS NO. A/YL-TYST/1194 AND 1195**

- Applicant** : Ming Wai Management Limited represented by Metro Planning and Development Company Limited
- Sites** : Lots 2535 (Part), 2536 (Part) and (Application No. A/YL-TYST/1194)  
2537 (Part) in D.D. 124, Hung Shui Kiu, Yuen Long, New Territories  
Lots 2536 (Part) and 2537 (Part) in (Application No. A/YL-TYST/1195)  
D.D. 124, Hung Shui Kiu, Yuen Long, New Territories
- Site Areas** : 620 m<sup>2</sup> (about) (Application No. A/YL-TYST/1194)  
500 m<sup>2</sup> (about) (Application No. A/YL-TYST/1195)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings**<sup>1</sup> : “Residential (Group B)1” (“R(B)1”); and  
*[Restricted to a maximum plot ratio of 1, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m)]*  
“Government, Institution or Community” (“G/IC”)
- Applications** : Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposals**

- 1.1 The applicant seeks planning permissions for proposed temporary shop and services each for a period of three years at two application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP for the “R(B)” and “G/IC” zones, ‘Shop and Services’ and ‘Shop and Services (not elsewhere specified)’ are Column 2 uses respectively which require planning permission from the Town Planning Board (the

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<sup>1</sup> Application No. A/YL-TYST/1194 is partly zoned “R(B)1” (about 65%) and “G/IC” (about 35%); while application No. A/YL-TYST/1195 falls mainly within an area zoned “R(B)1” (about 89%) with a minor portion zoned “G/IC” (about 11%).

Board). For A/YL-TYST/1194, the Site is currently occupied by a metal workshop without valid planning permission (**Plans A-2, A-4a and 4b**). For A/YL-TYST/1195, the Site is currently occupied by storage of miscellaneous items without valid planning permission (**Plans A-2, A-4a and 4c**).

1.2 The Sites are accessible from Hung Shun Road via a local track (**Plan A-2**). According to the applicant, the proposals are for shops selling metalware (including windows, doors and doors frame, etc.) (for application No. A/YL-TYST/1194) and building materials (including screws, PVC pipes and handy tools, etc.) (for application No. A/YL-TYST/1195) to serve the nearby residents. Only light goods vehicles are allowed to enter/park at the Sites for operational needs. Plans showing the vehicular access leading to the Sites, site layout and drainage proposals for the two applications submitted by the applicant are at **Drawings A-1a to A-3b** respectively.

1.3 The major development parameters of the applications are summarised as follows:

<b>Major Development Parameters</b>	<b>Application No. A/YL-TYST/1194</b>	<b>Application No. A/YL-TYST/1195</b>
Proposed Use	Proposed Temporary Shop and Services for a Period of 3 Years	
Site Area	About 620 m <sup>2</sup>	About 500 m <sup>2</sup>
Total Floor Area (Non-domestic)	Not more than 302 m <sup>2</sup>	Not more than 420 m <sup>2</sup>
No. and Height of Structures	3 • for shop and services, site office and toilet (3 - 6m, 1 - 2 storey(s))	3 • for shop and services, staff restroom and open shed (4.5 - 6.5m, 1 - 2 storey(s))
No. of Parking Space(s)	Nil	2 (for private cars) (5 m x 2.5 m each)
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)	1 (for light goods vehicle) (7 m x 3.5 m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily	

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

- (a) Application Form with attachments received on 5.12.2022 (**Appendix I**)  
(application No. A/YL-TYST/1194)
- (b) Application Form with attachments received on 5.12.2022 (**Appendix Ia**)  
(application No. A/YL-TYST/1195)
- (c) Further Information (FI) received on 17.1.2023\* (**Appendix Ib**)  
(application No. A/YL-TYST/1194)
- (d) FI received on 17.1.2023\* (application No. A/YL-TYST/1195) (**Appendix Ic**)

\* *accepted and exempted from publication requirements*

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the applications are detailed in the Application Forms (**Appendices I and Ia**). They can be summarised as follows:

- (a) the proposed temporary uses would not jeopardise the long-term planning intention;
- (b) the proposed use is not incompatible with the surrounding environment. Similar applications for shop and services have been approved; and
- (c) there will be minimal traffic, environmental and drainage impacts arising from the proposed uses.

## 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 site notices and sending the notices to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

For A/YL-TYST/1194, the Site was the subject of a planning enforcement case against an unauthorized development (UD) involving storage and workshop use (**Plan A-2**). Enforcement Notice was issued on 25.1.2022 and Cancellation Notice was issued on 20.4.2022. For A/YL-TYST/1195, the Site is currently not subject to planning enforcement action.

## 5. **Previous Application**

There is no previous planning application concerning the Sites.

## 6. **Similar Applications**

- 6.1 There are five similar planning applications for temporary shop and services uses within/straddling the subject “R(B)1” and “G/IC” zones in the past five years. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

### *Approved applications*

- 6.2 Out of the five applications, four applications (No. A/YL-TYST/1092, 1156, 1157 and 1160) were approved by the Rural and New Town Planning Committee (the Committee) between 2021 and 2022 each for a period of three years, mainly on similar considerations that the developments were not incompatible with the

surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions.

*Rejected application*

- 6.3 The remaining application (No. A/YL-TYST/918) straddling the “R(B)1” zone and the adjacent “Residential (Group D)” (“R(D)”) zone was rejected by the Committee in 2018 on the grounds that the scale of the proposed shop was too large and generally incompatible with the neighbouring church and kindergarten uses, and not in line with the planning intention of the “R(D)” zone.

**7. Planning Intentions**

- 7.1 The planning intention of the “R(B)” zone is for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 7.2 The planning intention of the “G/IC” zone 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. 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.

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

- 8.1 The Sites are:

- (a) accessible from Hung Shun Road to their north via a local track (**Plans A-2 and A-3**);
- (b) paved, fenced off and occupied by a metal workshop without valid planning permission (for application No. A/YL-TYST/1194) (**Plans A-4a and A-4b**); and
- (c) paved, fenced off and occupied by storage of miscellaneous items without valid planning permission (for application No. A/YL-TYST/1195) (**Plans A-4a and A-4c**).

- 8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) mixed in character, comprising predominantly residential developments/structures, warehouses and open storage/storage yards, intermixed with car parks, vehicle repair workshops, a school, restaurant, sitting-out area, car servicing, metal workshop and vacant land/structures;
- (b) there are residential structures and developments (namely The Woodville, Ming Wai Court and Symphony Garden) in the vicinity of the Sites, and the nearest one is located about 10m to their southeast; and

- (c) except for an eating place with valid planning permission (No. A/YL-TYST/1189), a warehouse to the southeast and a metal workshop to the southwest, the remaining warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected UD's subject to planning enforcement action.

## **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 applications. Their general comments on the applications 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 applications:

### **Land Administration**

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

He has grave concerns given that there are unauthorized building works and/or uses on Lot Nos. 2535 and 2537 in D.D. 124 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by his department.

## **10. Public Comments Received During the Statutory Publication Period**

On 13.12.2022, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from the same individual on each application objecting on the grounds that the proposed use will generate adverse environmental and fire safety impacts on the surrounding area (**Appendices V-1 and V-2**).

## **11. Planning Considerations and Assessments**

11.1 The applications are for proposed temporary shop and services each for a period of three years at sites zoned "R(B)1" and "G/IC" on the OZP. Although the applied/proposed use is not entirely in line with the planning intentions of the "R(B)" and "G/IC" zones, it could serve any demand for shop and services in the area. Given that there is currently no known development proposal and programme concerning the Sites, approval of the applications on a temporary basis of three years would not jeopardise the long-term development of the area.

11.2 The proposal is generally not incompatible with the surround area, which comprises predominantly residential developments intermixed with warehouses, open storage/storage yards, car parks and workshops (**Plan A-2**).

- 11.3 Concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application except DLO/YL, LandsD. DLO/YL, LandsD has grave concerns on the applications as there are unauthorized building works and/or uses on the Sites which are currently subject to lease enforcement actions. In this regard, the applicant indicates that he will take action to remedy the lease breaches as demanded by DLO/YL, LandsD (**Appendices Ib and Ic**). Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas arising from the proposed uses are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impact on the surrounding areas and that the planning permission do not condone any other development/use found on the Sites (i.e. metal workshop and storage uses) but not covered by the applications.
- 11.4 Given that four similar applications within/straddling the subject “R(B)1” and “G/IC” zones have been approved in the past five years on grounds that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions, approval of the current applications is generally in line with the Committee’s previous decisions. Although there is one similar application rejected by the Committee in 2018, it was mainly located within the adjacent “R(D)” zone and the scale of that proposal was generally not in line with the planning intention of the “R(D)” zone. Such consideration is generally not applicable to the current applications as the proposed uses are small in scale.
- 11.5 There is one public comment objecting to each application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the two applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of three years until 3.2.2026. The following conditions of approval and advisory clauses for the two applications are also suggested for Members’ reference:

### Approval conditions for application No. A/YL-TYST/1194

- (a) the submission of a revised 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 3.8.2023;

- (b) in relation to (a) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.11.2023;
- (c) in relation to (b) above, the implemented drainage facilities 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 3.8.2023;
- (e) in relation to (d) 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 3.11.2023;
- (f) if the above planning condition (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 (a), (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.

Approval conditions for application No. A/YL-TYST/1195

- (a) the submission of a revised 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 3.8.2023;
- (b) in relation to (a) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.11.2023;
- (c) in relation to (b) above, the implemented drainage facilities 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 3.8.2023;
- (e) in relation to (d) 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 3.11.2023;
- (f) if the above planning condition (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 (a), (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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Member's reference:

the proposed use is not in line with the planning intentions of the "R(B)" and "G/IC" zones, which are for sub-urban medium-density residential developments in rural areas and primarily for the provision of Government, institution or community facilities respectively. No strong planning justification has been given in the submissions to justify a departure from the planning intentions, even on a temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 5.12.2022 (application No. A/YL-TYST/1194)
<b>Appendix Ia</b>	Application Form with attachments received on 5.12.2022 (application No. A/YL-TYST/1195)
<b>Appendix Ib</b>	FI received on 17.1.2023 (application No. A/YL-TYST/1194)
<b>Appendix Ic</b>	FI received on 17.1.2023 (application No. A/YL-TYST/1195)
<b>Appendix II</b>	Similar Applications covering the Sites
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendices V-1 and V-2</b>	Public Comments
<b>Drawings A-1a and A-1b</b>	Vehicular Access Plans
<b>Drawings A-2a and A-2b</b>	Site Layout Plans
<b>Drawings A-3a</b>	Drainage Proposals



**and A-3b**

**Plan A-1**                      Location Plan with Similar Applications

**Plan A-2**                      Site Plan

**Plan A-3**                      Aerial Photo

**Plans A-4a to**                Site Photos  
**A-4c**

**PLANNING DEPARTMENT**  
**FEBRUARY 2023**