

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/288

<u>Applicant</u>	: Myland Property Agency Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 4585 RP (Part) in D.D. 116, Tai Kei Leng, Yuen Long, New Territories
<u>Site Area</u>	: 144m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/25
<u>Zoning</u>	: “Open Space” (“O”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 6 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “O” zone, ‘Shop and Services’ use is under Column 2 that requires planning permission from the Town Planning Board (the Board). The Site is currently used for car service without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of a previous application No. A/YL/218 for proposed temporary shop and services (real estate agency and car audio shop) which was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 19.2.2016 for a period of 6 years. All the time limited approval conditions of the planning permission have been complied with and the permission expired on 19.2.2022. Compared with the last application (No. A/YL/218), the current application is submitted by the same applicant for the same use at the Site with a reduction in site area and different development parameters.
- 1.3 According to the applicant, the proposed development comprises 2 two-storey structures with a total gross floor area (GFA) of not more than 170m². One structure would be used as car audio shop, whilst the other structure would be used as real estate agency on 1/F, and carport with a parking space for private

car and a loading/unloading bay for light van at G/F. Only private car and light van are allowed to enter/be parked on the Site. No car repairing or car dismantling will be carried out at the Site. The site is accessible via a local track branching off Tai Kei Leng Road. The proposed vehicular access plan and layout plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

- 1.4 A comparison of the major development parameters of the current application and the previously approved application is summarised as follows:

Major Development Parameters	Previous Approved Application (A/YL/218) (a)	Current Application (A/YL/288) (b)	Difference (b) - (a)
Proposed Use	Proposed Temporary Shop and Services for a Period of 6 Years		--
Site Area	About 255m ² (including about 26.5m ² of Government Land (GL))	About 144m ²	-111m ²
GFA	About 210.7m ²	Not more than 170m ²	-40.7m ²
No. of Structure(s)	5 (for shop and services, car parking and storage)	2 (for shop and services, car parking and toilet)	-3
No. of Storeys	1-2 storeys (4.5-6m)	2 storeys (6m)	-- (slight change in height)
No. of Parking Space(s)	2 (for private cars)	1 (for private car)	-1
No. of Loading / Unloading Space	1 (for light goods vehicle) (7m x 3.5m)	1 (for light van) (5m x 2.5m)	-- (change in vehicle type)
Operation Hours	9:00a.m. to 9:00p.m. from Mondays to Sundays including public holidays		--

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

- (a) Application Form with attachments received on 5.1.2022 (**Appendix I**)
- (b) Further Information (FI) received on 23.2.2022 (**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 at **Appendix I**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “O” zone.
- (b) The proposed development is not incompatible with the surrounding environment. The proposed shop and services would benefit the villagers in the vicinity.
- (c) Similar planning application (i.e. No. A/YL/241) was approved in the proximity of the Site.
- (d) The applicant has submitted the estimated traffic generation to support the application and to demonstrate that the actual traffic generation and attraction would be insignificant. In view of the nature, scale and form of the development, the proposed development would not generate adverse impact to the surrounding environment.
- (e) Compared with the previous approved planning application (No. A/YL/218) for the same use, the site area is reduced to avoid the proposed shop and services use in conflict with potential land resumption for Yuen Long South Development.

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 notice and sending notice to Shap Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

- 4.1 The Site is involved in one previous planning application No. A/YL/218 for proposed temporary shop and services (real estate agency and car audio shop), which was approved with conditions by the Committee on 19.2.2016 for a period of 6 years mainly on the considerations that the proposed development was considered not incompatible with the surrounding uses, no significant adverse traffic, environmental, drainage, traffic and landscape impacts were anticipated, and concerns of relevant departments could be addressed by imposing approval conditions. The planning permission expired on 19.2.2022. Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

- 4.2 Compared with the last application, the current application is submitted by the same applicant for the same use at a smaller site with different development parameters.

5. Similar Applications

- 5.1 There were 7 similar applications for various temporary shop and services uses within the same “O” zone of the OZP. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 5.2 All similar applications (No. A/YL/192, 200, 215, 221, 233, 241 and 258) were approved with conditions by the Committee for a period of 3 or 6 years between 2012 and 2019 mainly on considerations that approval of the applications on a temporary basis would not jeopardise the long-term development of the area; the proposed use would unlikely cause significant adverse impacts; and relevant government departments consulted had no adverse comment. However, the planning permission of application No. A/YL/192 was revoked on 19.4.2013 due to non-compliance with time-limited approval conditions.

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

- 6.1 The Site is:
- (a) accessible via a local track branching off Tai Kei Leng Road to the south;
 - (b) currently hard-paved with 2 structures of 1 and 2 storeys respectively; and
 - (c) currently used for car service without valid planning permission.
- 6.2 The surrounding areas have the following characteristics:
- (a) to its north and east are village houses and residential structures, vehicle parks, car services, vacant/unused land and temporary retail stores which are operated with planning permission (Applications No. A/YL/233, 241 and 258). To the further north and northeast are two medium-rise residential developments, namely “Sereno Verde” and “The Reach” respectively on land zoned “Residential (Group B)”;
 - (b) to its west is a barbecue area with temporary structures; and
 - (c) to its south is a real estate agency and Tai Kei Leng Road. Yuen Long Highway is located to the further south.

7. Planning Intention

The planning intention of “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted and their views on the application and the public comment, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises 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) Lot No. 4585 RP in D.D. 116 is covered by Short Term Waiver (STW) No. 4673 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency and Car Audio Shop)”.
- (c) Should the planning application be approved, the STW holder will need to apply to her office for modification of the STW conditions where appropriate. Besides, 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 as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 LandsD.

Traffic

- 8.1.2 Comments of the Commissioner for Transport (C for T):

He has no adverse comment on the application. The applicant should be reminded of the detailed comments at **Appendix V**.

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

He has no adverse comment on the application. The applicant should be reminded of the detailed comments at **Appendix V**.

Urban Design and Landscape

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

Urban Design

- (a) The Site is the subject of a previously approved Application No. A/YL/218 for the same use. As compared with the previous application, the current application involves a reduction in site area from about 255m² to about 144m² and number of structures from 5 to 2, with the same maximum height of structures. In view of the scale of the development and its temporary nature, it is considered not incompatible with the surrounding environment, which is predominantly rural in nature with temporary structures and some low-rise developments, from urban design and visual impact perspectives.

Landscape

- (b) With reference to the aerial photo of 2021, the Site is located in an area of miscellaneous rural fringe landscape character predominated by temporary structures, open storage yards and tree clutters. According to record, similar approved developments of temporary shop and services are observed in the same “O” zone. The proposed development is considered not incompatible with the existing landscape character of the surrounding area. According to the site photos taken on 17.1.2022, the Site is hard paved and mostly occupied by existing structures. No existing vegetation is observed. Further significant landscape impact on existing landscape resources within the site arising from the proposed development is not anticipated.

Drainage

8.1.5 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. The applicant should be reminded of the detailed comments at **Appendix V**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring (i) the submission of a drainage proposal, and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to 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. The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix V**.

Environment

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

- (a) There were 2 substantiated environmental complaints received in the past 3 years, which were related to noise and malodour arising from a garage. Two inspections were conducted, neither excessive noise nor malodour was noted. No subsequent prosecution was initiated.
- (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 Sites” (the COP) to minimise any potential environmental nuisances on the surrounding areas.

Geotechnical

8.1.9 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no adverse comment on the captioned application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Others

8.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no in-principle objection to the application since the Site involves private lot only.
- (b) The Site is zoned “O” on the OZP and is not on the priority list for development by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.

District Officer’s Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

9. Public Comments Received During Statutory Publication Period

On 14.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals (**Appendix IV**). One commenter objects to the application on the ground that the proposed development would result in adverse environmental impacts and potential fire risks, which would affect the safety and quality of living of the residents nearby, and the other commenter comments that the previous application did not comply with the approval conditions timely.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed temporary shop and services for a period of 6 years within the “O” zone on the OZP. The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although the proposed use is not in line with the planning intention of the “O” zone, it would provide the shop and services to meet any such need in the area. DLCS also advises that there is no plan to develop the Site into public open space at present. In this regard, approval of the proposed use on a temporary basis would not frustrate the long-term planning intention of the “O” zone.

- 10.2 The proposed development, comprising two structures with a building height of 6m (2 storeys) and a total floor area of not more than 170m², is not incompatible with the surrounding uses which comprises mainly low-rise residential structures and village houses intermixed with vehicle parks and retail stores.
- 10.3 There is no objection to or adverse comment on the application from concerned government departments, including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD and D of FS. Significant adverse traffic, environmental, drainage, sewerage, landscape and fire safety impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimise any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the COP in order to minimise any potential environmental impact.
- 10.4 The Site is subject to a previous application (No. A/YL/218) submitted by the same applicant for the same use covering a larger site area. The previous application was approved with conditions by the Committee on 19.2.2016 and all the time limited approval conditions have been complied with. Compared with the previous application, the current application involves a smaller site area and one additional storey is proposed to be built on top of an existing 1-storey structure at the Site. The two structures with a building height of 6m (2 storeys) is relatively small scale and significant impact is not anticipated. Moreover, there are 7 similar approved applications for various temporary shop and services uses in the same "O" zone. Approval of the current application is in line with the Committee's previous decisions.
- 10.5 There are two public comments received during the statutory publication period objecting to the application as summarised in paragraph 9 above. Planning considerations and assessments in paragraphs 10.1 to 10.4 above are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 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 6 years until 4.3.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) only private car and light van are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (b) the submission of a 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 4.9.2022;
- (c) in relation to (b) above, the implementation of the 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 4.12.2022;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 4.9.2022;
- (f) in relation to (e) 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 4.12.2022;
- (g) if any of the above planning condition (a) 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
- (h) if any of the above planning condition (b), (c), (e) 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 attached at **Appendix V**.

- 11.3 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 "O" zone, which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form with attachments received on 5.1.2022
Appendix Ia	FI received on 23.2.2022
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications within/straddling the Subject "O" Zone on the OZP
Appendices IV-1 to IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**