

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/267

<u>Applicant</u>	: Mr. LAM Wai Dan represented by Lanbase Surveyors Limited
<u>Site</u>	: Lot 4747 S.A. RP (Part) in D.D. 116, Yuen Long, N.T.
<u>Site Area</u>	: 125m 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/23
<u>Zoning</u>	: "Open Space" ("O")
<u>Application</u>	: Temporary Shop and Services for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for "O" zone, 'Shop and Services' is a Column 2 use which requires planning permission from the Town Planning Board (the Board). For temporary uses of any land or building expected to be over 5 years, the uses must conform to the zoned use. The Site is currently occupied by a two-storey structure for shop and services use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development comprises a two-storey structure for shop and services use with a total gross floor area (GFA) of about 176m², plot ratio (PR) of about 1.408 and site coverage of 70.4%. 1 loading/unloading space for light goods vehicle is proposed within the Site. The operation hours are between 8:00 a.m. and 11:00 p.m. daily. A proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

1.3 The major development parameters of the applied use are as follows:

Site Area	About 125m ²
Total Gross Floor Area (Non-domestic)	About 176m ²
No. of Structure	1
Maximum Height of Structure	2 storeys (8m)
No. of Loading/Unloading Space	1 (for Light Goods Vehicle)
Operation Hours	8:00a.m. to 11:00p.m. daily

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

- (a) Application form with attachments received on 22.9.2020 **(Appendix I)**
- (b) Planning statement attached to **Appendix I** **(Appendix Ia)**
- (c) Further Information received on 29.10.2020 in response to the comments from the Transport Department (TD)
(exempted from publication and recounting requirements) **(Appendix Ib)**
- (d) Further Information received on 4.11.2020 in response to TD's comments
(exempted from publication and recounting requirements) **(Appendix Ic)**
- (e) Further Information received on 9.11.2020 in response to TD's further comments
(exempted from publication and recounting requirements) **(Appendix Id)**

2. Justifications from the Applicant

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

No contravention to the planning intention

- (a) The planning intention of the subject "O" zone is 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. The applied use can provide a local shop to

serve the needs of local residents. Also, approval of the applied use on a temporary basis will not prejudice the future long-term planning of the area.

Permissions for similar use near the Site

- (b) There are a number of planning applications for similar uses approved in “O” zone in the past few years. Given that the similar cases are all located in “O” zone in the same district, the permissions granted by the Board revealed that the applied use should be suitable on the Site.

Compatible with the surrounding land uses

- (c) Besides some residential development in the vicinity, there are commercial activities including some local shops in the surrounding area. Therefore, the applied use is compatible with the surrounding land uses.

Meeting the local demand

- (d) There are many residents in the area but there is inadequate local shop and services serving the local community. The applied use would provide more choices for daily necessities to the local residents.

No adverse visual, environmental and traffic impacts

- (e) The applied use involves the development of a temporary two-storey structure, which would be similar to the existing building and its building height would be lower than structures in the surrounding development. Therefore, the applied use would unlikely cause significant adverse visual impact to the vicinity.
- (f) The applied use is considered less environmental sensitive, and there are appropriate drainage facilities provided within the Site. Therefore, no adverse environmental impact is anticipated.
- (g) The applied use would not generate heavy amount of vehicles to the Site. Some traffic arrangement would be applied including provision of a loading/unloading area for light goods vehicle, restriction of 1 to 2 times of delivery of goods by light goods vehicle per day, reserving adequate manoeuvring space within the Site in order to avoid any reverse of vehicles outside the Site. Customers are expected to visit the shop on foot. Therefore, no adverse traffic impact is anticipated.

Good accessibility

- (h) The Site is accessible via Tai Shu Ha Road West from Tai Tong Road. Public transports such as minibuses and taxis are available in the area. Therefore, the accessibility of the Site is good.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

The site is not subject to any previous application.

5. Similar Applications

5.1 There are 8 similar applications (No. A/YL/192, 200, 215, 218, 221, 233, 241 and 258) for various shop and service uses within the adjacent “O” zone on the OZP. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

5.2 All applications were approved by the Committee between 2012 and 2019 mainly on similar considerations that they were not incompatible with the surrounding land uses; the proposals would provide services to serve the locals; approval of the applications on a temporary basis would not jeopardize the long-term planning intention; and the technical concerns of relevant Government departments and local concerns could be addressed by imposing appropriate approval conditions. Nevertheless, amongst these approved applications, 1 application was subsequently revoked due to non-compliance with approval conditions.

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

6.1 The Site is:

- (a) located in the southern fringe of Yuen Long New Town;
- (b) accessible from Tai Shu Ha Road West (**Plan A-2**); and
- (c) currently hard-paved and occupied by a two-storey structure for shop and services use without valid planning permission.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use and intermixed with workshops, open storage yards and vehicle parks;
- (b) to its north, east and west are intermixed with land/structures occupied by residential uses, car repairing workshops, parking of vehicles and storage uses;
- (c) to its immediate south are low-rise residential buildings and to its

further south is Tai Kei Leng Road; and

- (d) to its further east across Tai Shu Ha Road West lies a nullah.

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 are summarised as follows:

Land Administration

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

- (a) The application 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) According to his site inspection, it is noted that an unauthorized structure is erected on site and a portion of the structure is suspected being used for domestic purposes. According to the established practice, application for regularization by way of Short Term Wavier etc. of unauthorized structures for domestic use (including the staff quarters) on private agricultural land will not be entertained. Hence, even if the Board approves the subject planning application, his office will not consider to regularize any structures for domestic use.
- (c) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures erected or to be erected for non-domestic use, or regularize any irregularities on site, if any. 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 landlord or lessor at its sole discretion and there is no guarantee that such application 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):

- (a) He has no comment on the application.
- (b) 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.

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

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) If the proposed run-in/out is agreed by TD, the applicant should construct a run in/out at Tai Shu Ha Road West in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.

Environment

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

- (a) He has no objection to the application.
- (b) The proposed development would not involve operation of heavy vehicles nor dusty operations, while there is sensitive receiver within 100m from the site boundary. Should the application be approved, the applicant is advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("CoP") issued by DEP to minimise potential environmental nuisance to the surrounding area.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Urban Design and Landscape

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

Urban Design

- (a) The Site is located at the southwest of the Yuen Long New Town and to the north of Yuen Long Highway and accessible via Tai Shu Ha Road West. It is surrounded by scattered temporary structures and low-rise buildings with existing village settlements to its northwest and further south while medium-rise residential developments are situated to the further northeast. According to the Expert Evaluation on Air Ventilation Assessment of Yuen Long Town (2008), the strip of land in the southern extension of the Yuen Long Town to which the Site is situated are reserved for the provision of open space to serve as buffer between Yuen Long Highway and the existing developments in the south.
- (b) The application involves a 2-storey temporary structure (at 8m high) to accommodate shop and services facilities with an ancillary office on the first floor. Given the low-rise nature of the temporary structure, significant visual impact is not anticipated.

Landscape

- (c) According to the site photos taken on 5.10.2020, the Site is hard paved and mostly occupied by an existing structure. It seems that the applied use is already in operation. When comparing the aerial photos of 2019 and 2020, it is noted that a medium-sized tree at eastern corner of the Site has been removed while an existing Schefflera actinophylla (傘樹), in fair health condition, is still observed at the southern periphery of the Site. With reference to the aerial photo of 2019, the Site is located in an area of miscellaneous rural fringe landscape character predominated by temporary structures, open storage yards and tree clutters. Similar approved developments of temporary shop and services under planning applications No. A/YL/215, 233, 241 and 258 are observed in “O” zone in the vicinity. The proposed development is considered not incompatible to the landscape character of the surrounding area.
- (d) Considered that significant adverse landscape impact arising from the proposed development is not envisaged, she has no objection to the application from landscape planning perspective.

Drainage

8.1.6 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. Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) the submission of a drainage proposal and (ii) the implementation and maintenance of the drainage proposal for the development to his/the Board's satisfaction.
- (b) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from the DEP regarding the sewage disposal arrangement of the proposed development.

Fire Safety

8.1.7 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 also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs should be clearly marked on the layout plans.
- (c) In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

8.1.8 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 (BA) 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's attention is drawn to the following points:
 - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the prior approval of the BA, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the captioned application;
 - (ii) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (iii) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations [B(P)R] respectively; and
 - (v) the Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

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

- (a) The Site is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the

Site into public open space at present.

- (b) Since the application involves private lot only and the applicant is the sole “current land owner”, he has no in-principle objection to the application.

8.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no specific view on the application.
- (b) Other detailed comments are at **Appendix III**.

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

- (a) He has no comment on the planning application.
- (b) Other detailed comments are at **Appendix III**.

District Officer’s Comments

8.1.12 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) Director of Electrical and Mechanical Services (DEMS);
- (b) Project Manager (West) (PM(W)), CEDD;
- (c) Commissioner of Police (C of P); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

9. Public Comments Received During Statutory Publication Period

On 29.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

10. Planning Considerations and Assessments

10.1 The application is for 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. The proposed development is not entirely in line with the planning

intention of the “O” zone. However, DLCS advises that there is no plan to develop the Site into public open space at present. The proposed development could provide retail services to meet any such demand in the area. As such, approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “O” zone.

- 10.2 The proposed development comprises a two-storey temporary structure (8m high) with a total GFA of about 176m². The proposed use with a relatively small development scale is not incompatible with the surrounding uses which are predominantly residential uses intermixed with workshops, open storage yards and vehicle parks. CTP/UD&L, PlanD has no comment on the application from visual impact point of view.
- 10.3 Relevant government departments consulted, including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimize any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments.
- 10.4 There is no public comment received on the application during the statutory publication period.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10, the Planning Department has no objection to the temporary shop and services for a period of 6 years.
- 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 20.11.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back and reverse onto/from public road at any time during the planning approval period;
- (c) 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 20.5.2021;
- (d) in relation to (c) 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 20.8.2021;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 20.5.2021;
- (g) in relation to (f) 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 20.8.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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
- (i) if any of the above planning conditions (c), (d), (f), (g) 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 III**.

- 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. There is no strong planning justification in the submission for a departure from such 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 22.9.2020
Appendix Ia	Planning statement attached to Appendix I
Appendix Ib	Further Information received on 29.10.2020
Appendix Ic	Further Information received on 4.11.2020
Appendix Id	Further Information received on 9.11.2020
Appendix II	Similar applications within the adjacent “O” zone on the OZP
Appendix III	Recommended advisory clauses
Drawing A-1	Proposed layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2020**