

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

**APPLICATION NO. A/YL-MP/275**

<b><u>Applicant</u></b>	:	Mr. Fung Hok Lan represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 2874 in D.D. 104, Mai Po, Yuen Long
<b><u>Site Area</u></b>	:	About 742.7 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<b><u>Zoning</u></b>	:	“Open Space” (“O”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services (Metal Hardware and Household Items Retail Shop) 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 (metal hardware and household items retail shop) for a period of 3 years (**Plan A-1**). According to the Notes for the “O” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is partly occupied by two structures and construction works are currently being undertaken on site.
- 1.2 The Site is the subject of 2 previously approved applications (Nos. A/YL-MP/239 and 246) (**Plan A-1a**). The last application No. A/YL-MP/246 submitted by the same applicant for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 8.1.2016 with conditions for a period of 3 years until 8.1.2019. However, the application was revoked on 8.6.2018 due to non-compliance with the condition requiring the implementation of fire service installations (FSIs) proposal.
- 1.3 As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible at the east via a local track leading to Castle Peak Road – Mai Po.

In support of the application, the applicant has submitted a landscape plan (**Drawing A-2**) and a FSIs proposal (**Drawing A-3**).

- 1.4 The major development parameters of the current application are the same as the last approved application No. A/YL-MP/246 except there is a reduction in private car parking spaces and change in operation hours. They are summarized below:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-MP/246 (a)</b>	<b>Current Application No. A/YL-MP/275 (b)</b>	<b>Difference (b) – (a)</b>
Development/ use	Temporary shop and services (metal hardware shop and household items retail store) for a period of 3 years	Proposed temporary shop and services (metal hardware and household items retail shop) for a period of 3 years	Same
Site area	About 742.7m <sup>2</sup>	About 742.7m <sup>2</sup>	Same
Total Floor area	108m <sup>2</sup>	About 108m <sup>2</sup>	Same
No. of Structures	2	2	Same
Height of structures	1 storey (3.65m)	1 storey (3.65m)	Same
No. of Parking Spaces Private Car	6	4	-2
Loading/Unloading	1	1	Same
Operation Hours	9:00a.m. to 7:00p.m. Monday to Saturday  No operation on Sunday and public holidays	10:00a.m. to 6:00p.m. Monday to Sunday (including public holidays)	<ul style="list-style-type: none"> <li>● Changes in operation hours</li> <li>● Operation on Sunday and public holidays</li> </ul>

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

- (a) Application Form received on 4.9.2018 **(Appendix I)**
- (b) Further Information (FI) received on 11.10.2018 providing responses to departmental comments (*accepted and exempted from publication and*) **(Appendix Ia)**

*recounting requirements)*

- (c) FI received on 30.10.2018 clarifying the reason for not being able to comply with the FSIs condition imposed under previous application No. A/YL-MP/246 (*accepted and exempted from publication and recounting requirements*) **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed in Appendix I of the application form and FIs at **Appendices I, Ia and Ib**. They can be summarized as follows:

- (a) The proposed use is a Column 2 use on the Notes of the “O” zone on the OZP and is compatible with the surrounding land uses within the same zone.
- (b) The proposed development does not involve any filling or excavation of land. No metal cutting work will be carried out at the Site. Waste water produced at the Site will be handled by septic tanks compliant with the Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs). There will be no adverse impacts on the surrounding areas. The applicant will also continue to maintain the 16 trees planted under the previously approved application No. A/YL-MP/246.
- (c) There is sufficient manoeuvring space within the Site and vehicles will not have to queue back to or reverse onto/from the Site. There will be 4 private car parking spaces for visitors’ use. Employees will have to arrive by public transport. The impact on traffic is insignificant.
- (d) Consent was obtained from the owner of the adjacent private lot to the east of the Site for access to the Site.
- (e) Under previous application No. A/YL-MP/246, the applicant failed to comply with the condition requiring the implementation of FSIs proposal because connection works to water and electricity supply mains had not been undertaken on time despite FSIs being installed at the site. In this application, the applicant has submitted a FSIs proposal for the proposed use. Further submissions and subsequent implementation works of FSIs proposal will be prepared in accordance with the Fire Services Ordinance and the Fire Safety (Buildings) Ordinance.

## **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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a notice of the application at the Site and

sending the notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Town Planning Board Guidelines**

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development and redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are exempted from the requirement of EcoIA.

#### **5. Background**

- 5.1 The Site is subject to current planning enforcement action against unauthorized development (UD) involving storage use. Enforcement Notice (EN) was issued on 20.9.2018 requiring discontinuation of the UD. If the notice is not complied with, prosecution action may be taken.
- 5.2 The Site was also the subject of three previous enforcement cases. The first enforcement case involves an UD relating to filling of pond. An EN was issued on 12.3.2009 to the concerned parties requiring the discontinuation of the UD. Subsequently, site inspections by the Planning Authority revealed that the UD was discontinued upon the expiry of the EN. In order to restore the greenery and amenity of the area, Reinstatement Notice (RN) was issued on 28.7.2009 requiring the concerned parties to reinstate the damaged land. Compliance Notice (CN) for EN and RN were issued on 9.2.2010 and 10.2.2010 respectively.
- 5.3 The second enforcement case involves an UD relating to filling of land. An EN was issued on 4.12.2012 to the concerned parties requiring the discontinuation of the UD. Subsequently, the site inspections revealed that the UD was discontinued upon the expiry of the EN. Hence, CN was issued on 28.5.2013.
- 5.4 The third enforcement case involves an UD relating to storage use. An EN was issued on 13.2.2014 to the concerned parties requiring the discontinuation of the UD. Subsequently, the site inspections revealed that the UD was discontinued upon the expiry of the EN. Hence, CN was issued on 22.7.2014.

## 6. Previous Applications

- 6.1 The Site (in whole or in part) is the subject of 2 previous applications (Nos. A/YL-MP/ 239 and 246) for the similar ‘shop and services’ use. They were all approved with conditions by the Committee.
- 6.2 Application No. A/YL-MP/239 for proposed temporary shop and services (florist and gardening shop) submitted by a different applicant was approved by the Committee on 13.3.2015 for a period of 3 years on the grounds that the proposed development was considered not incompatible with the surrounding land uses, and there were no adverse department comments on the application. However, the planning permission was revoked on 13.9.2015 due to non-compliance with approval conditions relating to the submission of drainage, FSIs, landscape and tree preservation proposals and provision of boundary fencing on the site.
- 6.3 Application No. A/YL-MP/246 for temporary shop and services (metal hardware shop and household items retail store) submitted by the same applicant was approved by the Committee on 8.1.2016 for a period of 3 years on the grounds that the proposed development was considered not incompatible with the surrounding land uses, and there were no adverse departmental comments on the application. However, the planning permission was revoked on 8.6.2018 due to non-compliance with the approval condition relating to the implementation of FSIs proposal.
- 6.4 Details of these applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

## 7. Similar Applications

- 7.1 Since 2009, there have been 16 similar applications mainly for temporary shop and services within the same “O” on the OZP of which 11 are for real estate agencies (application Nos. A/YL-MP/175, 179, 188, 201, 210, 211, 225, 233, 254, 258 and 267), 2 for furniture shops (application Nos. A/YL-MP/180 and 249) and 3 for metal hardware shops (application Nos. A/YL-MP/244, 264 and 269). The applications were approved by the Committee for periods of 3 years respectively on the consideration that the developments were not incompatible with the surrounding land uses, there was no programme for development of the “O” zone at the time, and the concerns of Government departments could be addressed by imposing approval conditions.
- 7.2 Details of the similar applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) accessible from the east via a local track leading to Castle Peak Road – Mai Po;
  - (b) currently partly occupied by two structures and with some construction works being undertaken on site; and
  - (c) within the WBA of Deep Bay.
- 8.2 The surrounding areas are mainly residential developments, restaurants and storage yards:
- (a) to the immediate north is Palm Springs Boulevard; further north across Palm Springs Boulevard are a restaurant approved under application No. A/YL-MP/265, a sales office (for real estate and furniture) and furniture showrooms approved under application No. A/YL-MP/249 and open storage of construction materials;
  - (b) to the immediate east are a real estate agency and parking of vehicle approved under application No. A/YL-MP/258 and open storage of construction materials; further east are unused lands and Castle Peak Road - Mai Po;
  - (c) to the immediate south is a pond; further south are residential dwellings, storage yards for renovation materials, unused land and a plant nursery; and
  - (d) to the immediate west is a residential development, Royal Palms.

## **9. Planning Intention**

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

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

10.1.1 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) The private land of Lot No. 2874 in D.D. 104 is covered by Short Term Waiver (STW) No. 4043 to permit structures for the purpose of “Temporary Shop and Services (Florist and Gardening Shop)”.
- (c) The Site is accessible from Castle Peak Road - Mai Po through both Government Land (GL) and private land. This office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the planning application, the STW holder will need to apply to his office for modification of the STW conditions if there is any irregularity on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD 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 other the payment of premium or fee, as may be imposed by the LandsD.

### **Environment**

#### 10.1.2 Comments of the Director of Environmental Protection (DEP):

- (a) He has no adverse comments on the application provided that it is used as its applied use for a temporary shop and that no heavy vehicles as well as no metal cutting work will be involved.
- (b) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize potential environmental impacts on the surrounding areas.
- (c) There was no environment complaint related to the Site in the past 3 years.

### **Nature Conservation**

#### 10.1.3 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the WBA. According to the past aerial photos, the Site was previously a pond but was subsequently filled in 2009. He notes that the Site was involved in three previous enforcement cases against UD. The Board may wish to take into account the site history among others and consider whether approving the application would set an undesirable precedent for encouraging other similar unauthorized activities in the area.
- (b) As the Site is currently formed land, he has no strong view on the application from nature conservation point of view. Should the application be approved, the applicant is advised to ensure that the development would not encroach on or affect the nearby pond to the immediately south of the Site.

### **Traffic**

#### 10.1.4 Comments of the Commissioner for Transport (C for T):

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department (TD). The land status of the local access road and private lot(s) should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following conditions should be incorporated:
  - (i) Only private car and light goods vehicle are allowed to access the Site.
  - (ii) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Castle Peak Road - Mai Po should be commented by TD.
- (b) His department does not and will not maintain any access connecting the Site and Castle Peak Road - Mai Po. Presumably, the relevant departments will provide their comments, if any.



- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.6 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazetted railway schemes, nor railway protection boundary of heavy rail systems. As such, he has no comments on the application from railway development viewpoint.

**Drainage**

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) He notes that the applicant has obtained approval of drainage proposal under previous planning application No. A/YL-MP/246 and confirm that the same will be adopted. In this regard, the applicant should provide the approved drainage proposal under planning application No. A/YL-MP/246 (with approval letter), and a set of latest record photographs showing the completed drainage works (including the internal conditions of the drains) with the corresponding photograph locations marked clearly on the approved drainage plan for DSD's reference. DSD will inspect the completed drainage works jointly with the applicant with reference to a comprehensive set of photographs.
- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) The applicant is reminded that the proposed drainage proposal / works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (e) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the lot boundary in order to ensure the unobstructed discharge from the Site in

future.

- (g) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage works on site under proper maintenance at all times.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application 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. In addition, the applicant is 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 to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers and open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's 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.

- (c) 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 respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

### **Landscape**

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

- (a) As significant landscape impact due to the proposed development is not anticipated, he has no objection from landscape planning perspective to the application.
- (b) The Site, located at east of Royal Palms and north of Ko Hang and Yau Mei San Tsuen, falls within an area zoned "O" on the OZP. The Site is subject of two previous applications (Nos. A/YL-MP/239 and 246), to which he had no objection from landscape planning perspective on the applications. The last planning permission for application No. A/YL-MP/246 was revoked on 8.6.2018.
- (c) Comparing the aerial photos of 2017 to latest photo of 2018, there is no significant change in the landscape character where the Site is located. It comprises of small houses, temporary structures, car parks and cluster of tree group. The proposed use is not incompatible with the surrounding environment.
- (d) According to his site visit conducted on 4.10.2018, the Site was fenced off (with temporary material) and part of the area is hard paved. Trees planted surrounding the site boundary under previous planning permission (No. A/YL-MP/246) were generally in fair to good condition, except one tree had been heavily pruned near the ingress/ egress. Based on the landscape plan enclosed in the application, existing trees along the site boundary will not be in conflict with the proposed development.
- (e) Should the Board approve the application, he would suggest the following condition to be included with the planning

approval:

Submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

- (f) The following advisory comments should also be included:
- (i) According to his site visit conducted on 4.10.2018, some existing trees along the southern side of site boundary were found. The applicant is required to revise the landscape plan indicating the actual number of existing trees on Site.
  - (ii) The applicant is reminded of conducting weed control, observing and following the information below promulgated by the Greening, Landscape and Tree Management (GLTM) Section under Development Bureau (DEVB):
    - 樹木修剪的一般指引 (General Guidelines on Tree Pruning)  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/guideline\\_c.pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/guideline_c.pdf)
    - 護養樹木的建議圖解 (Pictorial Guide for Tree Maintenance)  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_Tree\\_Maintenance.pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)
    - 工程期間的樹木護理 (Tree Care during Construction)  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Tree\\_Care\\_during\\_Construction\\_e.pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Tree_Care_during_Construction_e.pdf)
    - 減低樹木風險的樹木護養簡易圖解 (Pictorial Guide for Tree Maintenance to Reduce Tree Risks)  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)

### **Open Space Provision**

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

- (a) The Site is zoned “O” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. It 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, he has no in-principle objection to the application.

### **Others**

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

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD;
- (b) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

### **District Officer's Comments**

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

His office has no comment on the application and the local comments shall be submitted to the Board direct, if any.

10.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Commissioner of Police (C of P);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

## **11. Public Comments Received During Statutory Publication Period**

On 14.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.10.2018, three public comments were received of which two objected to the application and one provided comments. The two objecting comments were received from a Yuen Long

District Council (YLDC) member and a member of the public raising concerns that the Site was subject of two revoked applications, the proposed development would create nuisance to the nearby residents and adverse road safety, environmental and drainage impacts. The one providing comments was received from another YLDC member commenting that nothing had changed since the previous application's revocation in June this year (**Appendix IV**).

## **12. Planning Considerations and Assessments**

- 12.1 The planning intention of the "O" zone is primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although the proposed shop and services (metal hardware and household items retail shop) use is not in line with the planning intention of the "O" zone, approval of the application for a period of 3 years would not frustrate the long-term planning intention of the "O" zone as there is no programme for implementing the proposed open space at present as advised by DLCS. The proposed shop and services could serve the nearby residents.
- 12.2 The proposed development is considered not incompatible with the surrounding land uses comprising residential development (i.e. Royal Palms), temporary real estate agency and temporary restaurant.
- 12.3 The Site falls within the WBA of the TPB Guidelines PG-No. 12C and the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no strong view on the application from ecological point of view as the Site is currently formed land.
- 12.4 Other concerned Government departments, including DEP, CE/MN of DSD, C for T, D of FS, and CTP/UD&L of PlanD, have no objection to or no adverse comment on environmental, drainage, traffic, fire safety and landscape aspects. Their technical concerns could be addressed by approval conditions as recommended in paragraph 13.2 (e) to (j) below. To mitigate potential environmental impacts on the surrounding area, approval conditions restricting operation hours and types of vehicle, as well as requiring the provision of boundary fencing are recommended in paragraph 13.2 (a) to (d) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize the possible environmental impacts.
- 12.5 The Site is the subject of two previous applications (Nos. A/YL-MP/239 and 246). The last application submitted by the same applicant for the same use was approved by the Committee on 8.1.2016 for a period of 3 years. Since 2009, the Committee has approved a total of 16 applications for similar shop and services use within the same "O" zone based on similar considerations. Approval of the current application is in line with the previous decisions of the

Committee.

- 12.6 Although the last application No. A/YL-MP/246 was revoked on 8.6.2018 due to non-compliance with the approval condition on the implementation of FSIs proposal, the applicant has submitted a FSIs proposal under the current application to which D of FS has no objection. The applicant has committed to comply with the approval condition should the application be approved. In view that D of FS has no objection to the application, it is considered that the subject application may be given sympathetic consideration. Shorter compliance periods for close monitoring of the progress on compliance with the approval conditions are recommended. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approved conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.7 There are two objecting comments raising concern that the proposed development would create nuisance to the nearby residents and have adverse road safety, environmental and drainage impacts, etc (see paragraph 11 above). In this regard, the planning considerations and assessments above are of relevance.

### 13. **Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary shop and services (metal hardware and household items retail shop) could be tolerated for a period of 3 years.
- 13.2 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 2.11.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) only private car and light goods vehicle are allowed to access the site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the site at any time during the planning approval period;
- (d) the provision of boundary fencing on the site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.2.2019;

- (e) the submission of as-built drainage plans and photographic records of the existing drainage facilities within **3** months from date of planning approval to the satisfaction of Director of Drainage Services or of the Town Planning Board by 2.2.2019;
- (f) the maintenance of existing drainage facilities at all times during the planning approval period;
- (g) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 2.2.2019;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 2.5.2019
- (i) the submission of a landscape proposal within **3** months from the date of planning approval to the satisfaction of Director of Planning or of the Town Planning Board by 2.2.2019;
- (j) in relation to (i) above, the implementation of the landscape proposal within **6** months from the date of planning approval to the satisfaction of Director of Planning or of the Town Planning Board by 2.5.2019;
- (k) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (l) if any of the above planning conditions (d), (e), (g), (h), (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; and
- (m) upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

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

the temporary use is not in line with the planning intention of the "O" zone primarily for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general



public. There is no strong justification in the submission for a departure from the planning intention, even on a temporary basis.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 4.9.2018
<b>Appendix Ia</b>	FI received on 11.10.2018 providing responses to departmental comments
<b>Appendix Ib</b>	FI received on 30.10.2018 providing minor clarifications
<b>Appendix II</b>	Previous applications covering the application site
<b>Appendix III</b>	Similar s.16 applications within the same "O" Zone on the Approved Mai Po and Fairview Park Outline Zoning Plan No. S/YL-MP/6
<b>Appendix IV</b>	Public comments received during statutory publication period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Drawing A-3</b>	Fire Service Proposal
<b>Plan A-1</b>	Location Plan and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2018**