

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/270

<u>Applicant</u>	Mr. Cheung Chi Yuen Danny represented by Metro Planning and Development Company Limited
<u>Site</u>	Lot 878 (Part) in D.D. 114, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	About 280m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Residential (Group D)” (“R(D)”) (<i>Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)</i>)
<u>Application</u>	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (real estate agency) at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “R(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and vacant.
- 1.2 According to the applicant, the site area is about 280m². One 1-storey structure (not exceeding 4.6m) with a total non-domestic floor area of about 140 m² is proposed at the Site for the proposed real estate agency use (**Drawing A-1**), which is intended to serve the residents in the neighbourhood. The Site is accessible from Kam Sheung Road via an existing run in/out of the adjoining site for temporary shop and services (retail shop for hardware groceries) for 3 years under Application No. A/YL-SK/248 submitted by the same applicant of the current application, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.5.2019 (**Plan A-2** and **Drawing A-2**). The applicant claimed that he has the right-of-way to Kam Sheung Road through the adjoining site (**Appendix Ia**). Two private car parking spaces will be provided within the Site. The proposed opening

time is 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan, vehicular access plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application form with attachments received on 16.10.2019 **(Appendix I)**
- (b) Supplementary Information (SI) received on 16.10.2019 **(Appendix Ia)**
- (c) Further Information (FI) dated 9.12.2019 **(Appendix Ib)**
(exempted from publication)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ib**, and are briefly summarized as follows:

- (a) The proposed development would help achieve the planning intention of “R(D)” zone to upgrade the existing temporary structures to permanent structures. The proposed use is on a temporary basis for a period of 3 years and therefore will not jeopardize the long-term planning intention.
- (b) The proposed development is not incompatible with the surrounding rural environment which is predominantly occupied by some temporary structures and an eating place. It is insignificant in size and scale, and is considered as a non-polluting use. Similar applications for ‘Shop and Services’ within “R(D)” zone in the rural areas in Tuen Mun and Yuen Long have been approved by the Board.
- (c) There is no adverse traffic impact arising from the proposed development. The Site is accessible from Kam Sheung Road via the adjoining site for temporary retail shop for hardware groceries under Application No. A/YL-SK/248. The estimated traffic generation by the proposed development (i.e. 0.3 pcu/hr on average and 1 pcu/hr during peak hours) is considered insignificant. Besides, adequate space for manoeuvring of vehicle is provided at the said adjoining site to avoid vehicles queuing onto Kam Sheung Road.
- (d) There is no adverse environmental impact, and the drainage impact is insignificant. The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by Environmental Protection Department (EPD) (including restricting the operation hours from 7:00pm to 9:00am and hard paving of the Site and its frontage) in order to minimize any possible environmental nuisances to the surrounding areas. Besides, with the implementation of proposed drainage facilities, it is anticipated that no adverse drainage impact will be generated by the proposed development.

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

The applicant is not the current land owner but has complied with the requirements as set out in the Town Planning Board (TPB) 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 at the Site and sending notice to Pat Heung Rural Committee by local registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to any active planning enforcement case.

5. Previous Application

There is no previous application in respect of the Site.

6. Similar Applications

6.1 There are two similar applications (No. A/YL-SK/248 and 251) for 'shop and services' use within the same "R(D)" zone on the OZP. Details of the applications are summarized at **Appendix II** and their locations are shown in **Plan A-1**.

6.2 Application No. A/YL-SK/248 for temporary shop and services (retail shop for hardware groceries) adjoining the Site (submitted by the same applicant of the current application) was recently approved with conditions by the Committee for a period of 3 years on 17.5.2019 on the considerations that the development would not jeopardize the long-term planning intention of the "R(D)" zone; it was not incompatible with the surrounding environment; and Government departments consulted generally had no adverse comment on the application.

6.3 Application No. A/YL-SK/251 for proposed temporary shop and services (metalware retail shop) was recently approved with conditions by the Committee for a period of 3 years on 19.7.2019 based on similar considerations as set out in paragraph 6.2 above.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

7.1 The Site is:

- (a) hard-paved and vacant; and
- (b) accessible from Kam Sheung Road via an existing run in/out of the adjoining site for the approved temporary retail shop for hardware groceries (Application No. A/YL-SK/248).

7.2 The surrounding areas are predominantly rural in character with some domestic dwellings/structures, active/fallow farmland, open storage/storage yards and vacant/unused land:

- (a) to its north is Kam Sheung Road, and to its further north are some domestic

structures intermixed with active/fallow farmland and vacant land;

- (b) to its east are some domestic structures, vacant land, a restaurant and an open storage of vehicles;
- (c) to its south are some domestic structures and a nullah, and to its further south are a few domestic structures intermixed with a vehicle repair workshop, an open storage of scrap metal, a soy food products manufacturing plant and a metal workshop; and
- (d) to its west are a temporary retail shop for hardware groceries approved under Application No. A/YL-SK/248, some domestic structures and a restaurant.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of 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 Site is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site;
- (c) the Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed relevant airfield height limit within the SKAHRA; and
- (d) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected 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. No construction of New Territories Exempted Building(s) will be considered or allowed. 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(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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) he has no comment on the application from traffic engineering perspective, having regard to the applicant's FI (**Appendix Ib**) on the justifications on the number of parking spaces, run in/out and manoeuvring arrangement as well as sightline analysis;
- (b) should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD is not and will not be responsible for the maintenance of any access connecting the Site with Kam Sheung Road; and
- (b) adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

Environment

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

should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

Drainage

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

- (a) he has no objection in-principle to the proposed development from the public drainage point of view. His detailed comments on the accepted drainage proposal are at **Appendix IV**; and
- (b) should the application be approved, the conditions requiring the implementation and maintenance of the accepted drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Building Matters

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

- (a) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of Buildings Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application;
- (b) for UBW erected on leased land, enforcement action may be taken by the BD 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) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (d) 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; and
- (e) 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 Building (Planning) Regulations at the building plan submission stage.

Fire Safety

9.1.7 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 being provided to his satisfaction;

- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

he has not received any comments from locals upon close of consultation and he has no particular comments on the application.

9.2 The following Government departments have no objection to/adverse comment on the application.

- (a) Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L of PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (d) Commissioner of Police (C of P); and
- (e) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 25.10.2019, the application was published for public inspection. During the three-week statutory public inspection period, three comments from two indigenous inhabitant representatives and one resident representative of Sheung Tsuen were received (**Appendix III**). All of them object to the application mainly on the grounds that the Site is located right next to bus stops (**Plan A-2**), where vehicles usually need to overtake when bus stops. With the additional traffic generated by the proposed development, the traffic safety risk to the road users in the area would be further increased.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (real estate agency) at the Site for a period of 3 years. One 1-storey structure with a total non-domestic floor area of about 140 m² (**Drawing A-1**) is proposed at the Site for the proposed

real estate agency use to serve the residents in the neighbourhood. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP (**Plan A-1**). While the proposed ‘shop and services’ use is not entirely in line with the planning intention of “R(D)” zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 In view of its small scale, the proposed development is not incompatible with the surrounding land uses which are intermixed by some domestic dwellings/structures, active/fallow farmland, open storage/storage yards and vacant/unused land (**Plan A-2**). C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects, and it is anticipated that the proposed development would not have significant adverse impacts on these aspects. To mitigate any potential traffic and environmental impacts on the surrounding areas, approval conditions restricting the operation hours as well as the type of vehicles allowed to access the Site as proposed by the applicant are recommended in paragraphs 12.2 (a) to (c) below. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by approval conditions in paragraphs 12.2 (d) to (h). Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 There are two similar applications (No. A/YL-SK/248 and 251) for temporary shop and services use within the same “R(D)” zone, which were recently approved with conditions by the Committee for a period of 3 years on 17.5.2019 and 19.7.2019 respectively. The Committee’s considerations as stated in paragraph 6 are generally applicable to the current application and approval of the application is in line with the previous decisions of the Committee.
- 11.4 Regarding the three public comments received during the statutory publication period as stated in paragraph 10, relevant Government departments’ comments and planning considerations set out in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 13.12.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of proposal for fire service installations and water supplies for fire-fighting 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 **13.6.2020**;
- (f) in relation to (e) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 **13.9.2020**;
- (g) the implementation of accepted drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **13.9.2020**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice; and
- (j) if any of the above planning conditions (e), (f) or (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 IV**.

- 12.3 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given

in the submission to justify a departure from the planning intention, even on a temporary basis.

13. Decision Sought

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

14. Attachments

Appendix I	Application form received on 16.10.2019
Appendix Ia	Supplementary Information (SI) received on 16.10.2019
Appendix Ib	Further Information (FI) dated 9.12.2019
Appendix II	Similar Applications
Appendix III	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**