

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/386

- Applicant** : Tang Wai Ip
- Site** : Lot 2616 (Part) in D.D.104, Ngau Tam Mei, Yuen Long
- Site Area** : About 1,312 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Residential (Group D)” (“R(D)”)
[maximum plot ratio: 0.2, maximum building height: 2 storeys (6m)]
- Application** : Temporary Shop and Services (Real Estate Office and Transportation Office)
with Ancillary Car Park and Storage for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (real estate office and transportation office) with ancillary car park and storage for a period of 3 years (**Plan A-1a**). The Site falls within an area zoned “R(D)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes for the “R(D)” zone, ‘shop and services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by temporary structures with parking of vehicles (**Plan A-2**).
- 1.2 The Site is the subject of 3 approved previous applications (Nos. A/YL-NTM/234, 285 and 374). The last application No. A/YL-NTM/374 submitted by the same applicant of the current application for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.11.2018 for a period of 3 years. According to the approved scheme, 10 ancillary private car parking spaces would be provided. An approval condition was imposed to require that only private cars are allowed to enter/be parked on the Site at all times during the planning approval period. In the current application, the applicant proposes to set aside 5 parking spaces for private cars or light goods vehicles (LGVs) use.

- 1.3 As shown in **Drawing A-2**, the Site is accessible directly from Ngau Tam Mei Road with its ingress and egress located at its northern boundary. The development includes a real estate office, a transportation office and storages. The layout plan is at **Drawing A-1**. The development parameters of the current application are the same as the previously approved application (No. A/YL-NTM/374) except that 5 out of the 10 approved private car parking spaces will now be used for parking of private cars or LGVs. The planning parameters are summarised as follows:

	Major Development Parameters
Site Area	1,312 m ²
Total Floor Area	326.73 m ²
No. of Storeys (Building Height)	1-2 (2.7-6.4m)
No. of Structures	10 (including 4 open sheds)
Parking Spaces	10 (5 for private cars and 5 for private cars/LGVs)
Operation Hours	9:00 a.m. to 6:00 p.m. on Mondays to Sundays, including public holidays

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

- (a) Application form with replacement page on planning justification received on 1.2.2019 **(Appendix I)**
- (b) Further Information (FI) dated 22.2.2019 clarifying the trip generation rate, provision of ancillary car park and the nature of the offices and the proposed structures **(Appendix Ia)**
- (c) FI dated 15.3.2019 clarifying the provision of LGVs at the Site **(Appendix Ib)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib** which are summarised as follows:

- (a) The application is temporary in nature without permanent structures which does not lead to a departure from the long term planning intention. The proposed transportation office is solely for general office purpose including customer service, clerical work and storing of office documents such as customer records. The one-storey ancillary storage is for storing the office supplies (e.g. papers and stationary) for the daily operation of the real estate office and transportation office. All structures within the site will not be used for residential purposes.
- (b) The ancillary car park is to serve the staff and visitors of the proposed real estate and transportation office use. No vehicle is allowed to queue back to or reverse onto/from the Site at any time. No vehicles exceeding 5.5 tonnes/over 7m in length would be allowed to enter the Site.

- (c) The transportation office has recently procured some electric LGVs to serve its company. The applicant advises that the use of LGV would help improve the air quality and greenery of the area. Chargers will be installed for recharging electric LGVs and the activity will take place at the parking spaces. No loading/unloading activities will be involved.
- (d) The site development will take into account local characteristics, location and surrounding land uses. Upon approval of the development, the approval conditions on the landscape and drainage aspects could enhance the greening of the area and alleviate the possibility of flooding, benefitting the surrounding areas.
- (e) Recent approvals of similar applications within the same “R(D)” zone indicate that the approval of the application is in line with the previous decisions of the Committee.

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 registered post to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

Part of the Site is subject to planning enforcement action against unauthorized development (UD) involving workshop use, storage use (including deposit of containers) and place for parking of vehicles. Enforcement Notice was issued on 11.7.2018 requiring discontinuation of the UD. The UD had already been discontinued and the Site is under close monitoring.

5. **Previous Applications**

5.1 The Site is the subject of 3 approved previous applications. Application Nos. A/YL-NTM/234 and A/YL-NTM/285 submitted by a different applicant for similar temporary real estate office with ancillary car park/temporary real estate office and transportation office with ancillary car parks and storages respectively for periods of 3 years were approved with conditions by the Committee on 27.3.2009 and 8.2.2013 respectively. Application No. A/YL-NTM/285 was revoked on 8.8.2013 due to non-compliance of approval conditions related to submission and implementation/provision of drainage and fire service installations (FSIs) proposals. The last application No. A/YL-NTM/374 submitted by the current applicant for the same use was approved with conditions by the Committee on 16.11.2018 for a period of 3 years. These three applications were approved mainly for the reasons that approval of the applications would not frustrate the long-term planning intention of the zone, the developments were not incompatible with the land uses of the surrounding areas, and relevant Government departments generally had no adverse comments on the applications.

5.2 Details of these applications are summarized in **Appendix II**. Their locations are shown on **Plan A-1b**.

6. Similar Application

6.1 Within the same “R(D)” zone on the OZP, there is one similar application (No. A/YL-NTM/290) for temporary real estate office. It was approved for 3 years with conditions by the Committee on 19.4.2013 mainly on grounds that the temporary use would not frustrate the long-term planning intention, was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area. The permission was revoked on 19.10.2013 due to non-compliance with approval conditions.

6.2 Details of the application are summarized in **Appendix III**. Its location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) accessible directly from Ngau Tam Mei Road; and
- (b) hard-paved and fenced off, and occupied by some temporary structures with parking of vehicles.

7.2 The surrounding areas have the following characteristics:

- (a) to its north across Ngau Tam Mei Road is a low-rise private residential development, La Maison Vineyard and some other residential dwellings, two open storage yards for construction machinery and materials as well as parking of vehicles in “Residential (Group C)” zone;
- (b) to its immediate east are the residential dwellings in temporary structures of Yau Tam Mei San Tsuen;
- (c) to its south is an abandoned meander and further south is a nullah; and
- (d) to its immediate west are storage areas, residential dwelling and some unused/vacant land.

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 are summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Scheduled Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible from Ngau Tam Mei Road through private land. His office does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on Site, if any. 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 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 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) Prohibition of vehicles longer than 7m entering Ngau Tam Mei Road from San Tam Road is currently implemented. Only private car or LGV not exceeding 7m length are allowed to access the Site.
- (b) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) His department does not and will not maintain any access connecting the Site and Ngau Tam Mei Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Chief Engineer/Railway Development 1-1, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazetted railway scheme boundary, nor railway protection boundary of

heavy rail systems. As such, he has no comment on the application from railway development viewpoint.

Environment

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

- (a) DEP has no objection to the application, as it is noted that no heavy vehicle and dusty construction material is involved in the application.
- (b) 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” issue by DEP to minimize potential environmental impacts on the surrounding area.

Landscape

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

- (a) The Site, located at the south of La-Maison Vineyard and Ngau Tam Mei Road, and east of San Tam Road, falls within an area zoned “R(D)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. The Site is involved in 3 previous planning applications. The last Application No. A/YL-NTM/374 with the similar development parameter (different in the number and type of parking spaces) for the same use submitted by the applicant, to which we had no objection from the landscape planning perspective, was approved by the Committee on 16.11.2018 for a period of 3 years.
- (b) According to the aerial photo of 2017, the surrounding area comprises of low-rise residential houses, village houses, some temporary structures, car park and tree groups. The Site with an access abuts Ngau Tam Mei Road. The proposed use is considered not incompatible with the landscape setting in proximity.
- (c) According to the site visit conducted on 21.2.2019, the Site was fenced off and hard paved with temporary structures erected. Existing trees in fair to good condition were found along the periphery of the Site. As further landscape impact arising from the proposed development is not anticipated, he has no objection to the application from landscape planning perspective.
- (d) As the Site is not located at landscape sensitive areas and there is inadequate space for meaningful landscape, the following condition in planning approval is suggested, should the application be approved by the Board:

The existing trees within the Site shall be maintained in healthy condition at all times during the approval period.

Nature Conservation

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

- (a) Noting that the Site has been paved and used for similar purpose for a number of years, and the current application is similar to the previous application approved in November 2018, he has no comment on the application from nature conservation perspective.
- (b) There is a retained meander located to the south of the Site. Should the application be approved, the applicant should be reminded to avoid disturbing the vegetation on the embankment of the meander and adopt necessary measures to prevent polluting the meander during operation.

Drainage

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

- (a) He notes that the application is related to previously approved planning application No. A/YL-NTM/374 with conditions relevant to drainage proposal and implementation works yet to be completed by the applicant. Under the current application, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying water flow etc.) with supporting design calculations and charts should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf). The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (b) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the 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) No public sewerage maintained by his office is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (e) The applicant is reminded that the proposed drainage works as well as

the site boundary should not cause encroachment upon areas outside his jurisdiction.

- (f) The applicant should consult DLO/YL regarding all the proposed drainage works outside the site 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 facilities on site under proper maintenance during occupancy of the Site.

Fire Services

9.1.9 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 FSD for approval. 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 to be installed should be clearly marked on the layout plans.
- (c) 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

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

- (a) As there is no record of approval by the Building Authority 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 approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application;

- (ii) for UBW erected on leased land, enforcement action may be taken by 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;
- (iii) before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD 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) Regulation (B(P)R) respectively; and
- (v) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Other Comments

9.1.11 Comments of the Commissioner of Police (C of P):

No obstruction caused to the vicinity would be tolerated. There is no other comment from Lok Ma Chau Division of Hong Kong Police.

9.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) According to the Electricity Ordinance (Cap. 406)(EO), the owner of the fixed electrical installation shall employ registered electrical contractor (REC) to carry out electrical work. The registered electrical worker (REW) employed by the REC shall follow the Code of Practice for the Electricity (Wiring) Regulations (CoP) to design, construct, install and protect the fixed electrical installation.
- (b) Code 26S of CoP described that charging facilities for electric vehicles should be designed and installed in accordance with the requirements specified in the relevant guidelines published by EMSD as appropriate and other relevant national / international standards or equivalent. Below please find the link of the "Technical Guidelines on Charging Facilities for Electric Vehicles" for your reference: https://www.emsd.gov.hk/filemanager/en/content_444/Charging_Facilities_Electric_Vehicles.pdf.
- (c) In accordance with regulation 19 of Electricity (Wiring) Regulations, a fixed electrical installation shall, after completion (including any work completed after repair, alteration or addition) and before it is energised for use, be inspected, tested and certified by a REW by the

issuance of Form WR1 to confirm that the requirements of EO have been met.

9.1.13 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. The project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
- (b) Proper license and/or permit issued by FEHD is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation and the operation of any business should not cause any obstruction.
- (c) If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. For any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

9.1.14 Comments of District Officer (Yuen Long) (DO(YL)):

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

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Director of Leisure and Cultural Services (DLCS).

10. Public Comment Received During Statutory Publication Period

On 12.2.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 5.3.2019, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (real estate office and transportation office) with ancillary car park and storage for a period of 3 years at the Site. The Site falls within “R(D)” zone which is intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the “R(D)” zone. However, 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 as there is no immediate development proposal for the Site. The applied use is not incompatible with the surrounding land uses, comprising mainly low-rise low density residential dwellings and village houses to its north and south, and a village environment within area zoned “V” to its farther east, and scattered open storage yards and vehicle parks in the vicinity. The real estate office can also provide services to the nearby residents and the local community.
- 11.2 The application is substantially the same as the last approved application for the same use (A/YL-NTM/374) except for inclusion of 5 parking spaces for LGVs. Relevant Government departments including DAFC, DEP, C for T, C of P, CE/MN of DSD and UD&L of PlanD have no adverse comment on the application from the ecological, environmental, traffic, drainage and landscape planning point of view. To mitigate any potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours, traffic arrangement, requiring provision of fencing, maintenance of existing trees, and submission and implementation of drainage and FSIs proposals are recommended in paragraphs 12.2 (a) to (i) 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. The applicant should also be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.3 There are 3 previous applications for similar use at the Site which were all approved. The last application No. A/YL-NTM/374 submitted by the applicant of the current application for the same use was approved on 16.11.2018 for reasons as set out in paragraph 5.1. The only similar application in the “R(D)” zone was also approved on 19.4.2013. Approval of the subject application is in line with the previous decisions of the Committee.
- 11.4 No public comment was received during statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments in paragraph 11 above, 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 22.3.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private car or light goods vehicle not exceeding 7m length, as proposed by the applicant, are allowed to access or be parked at the Site 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 existing trees within the Site shall be maintained in healthy condition at all times during the planning approval period;
- (e) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 22.9.2019;
- (f) 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 22.9.2019;
- (g) in relation to (f) 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 22.12.2019;
- (h) the submission of 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 22.9.2019;
- (i) in relation to (h) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 22.12.2019;
- (j) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (k) if any of the above planning conditions (e), (f), (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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

The development is not in line with the planning intention of the "R(D)" zone, which is intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification in

the submission for a departure from such 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 with replacement page received on 1.2.2019
Appendix Ia	FI dated 22.2.2019
Appendix Ib	FI dated 15.3.2019
Appendix II	Previous Applications
Appendix III	Similar Application
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Existing Vehicular Access
Plan A-1a	Location Plan with Similar Application
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos