

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-TYST/872

<u>Applicant</u>	: Mr. FONG Man Lee represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 2849 RP in D.D. 120, Kung Um Road, Yuen Long, New Territories
<u>Site Area</u>	: 175 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<u>Zoning</u>	: “Undertermined” (“U”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) for a further period of 3 years (**Plan A-1**). The Site is currently occupied for the applied use with valid planning permission under Application No. A/YL-TYST/706 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was the subject of one previous application (No. A/YL-TT/706), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 13.3.2015. All the time-limited approval conditions under the last application have been complied with and the permission is valid up to 13.3.2018. Details of the previous applications are at paragraph 6 below and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.
- 1.3 The Site is abutting and accessible from Kung Um Road to its east (**Plan A-2**). According to the applicant, the real estate agency aims to serve the locals. A plan showing the site location, a layout plan, an as-planted landscape and tree

preservation plan, and an as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.4 The major development parameters are as follows:

Site Area	About 175 m ²
Total Floor Area (Non-domestic)	About 80 m ²
No. of Structures	1 (for office use)
Height of Structures	6.5m (2 storeys)
Operation Hours	9:00 a.m. to 8:00 p.m. daily

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

- (a) Application Form received on 6.12.2017 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of the Supplementary Planning Statement (**Appendix Ia**). They can be summarized as follows:

- (a) The proposed development conforms to the planning intention of the “U” zone as it benefits land owners and site operators of nearby open storage yards. Temporary in nature, the applied development will not jeopardize the long term planning intention of the Site.
- (b) The Site was granted planning permission (No. A/YL-TYST/706) for the same use with same development parameters as the current application. All the approval conditions of the said permission have been complied with.
- (c) As the applied development is small-scale, it would not affect the character of the surrounding environment. Adverse traffic, environment and drainage impacts are also not envisaged.
- (d) The Committee has approved a number of planning applications which involve real estate agencies in rural Yuen Long since 2012 and a similar treatment is sincerely requested for the current application.

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 a notice of the application outside the Site and

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No. 34B) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is still covered by a valid planning approval (No. A/YL-TYST/706) and it is currently not subject to any active enforcement action.

6. Previous Application

6.1 The Site was the subject of one previous application submitted for proposed temporary shop and services (real estate agency) (No. A/YL-TYST/706) for a period of 3 years. Details of the application are summarized in **Appendix III** and the boundary of the site is shown on **Plan A-1**.

6.2 The last application was approved by the Committee on 13.3.2015 on considerations of not jeopardizing long-term planning intention of the "U" zone; not incompatible with surrounding land uses; and no adverse comments from relevant Government departments. All the time-limited approval conditions under the last application have been complied with and the permission is valid up to 13.3.2018.

6.3 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

7. Similar Applications

7.1 There are a total of 2 similar applications (No. A/YL-TYST/811 and 821) for various shop and services uses in this part of the "U" zone. Detailed information of the applications is at **Appendix IV** and their locations are shown on **Plan A-1**.

7.2 Application No. A/YL-TYST/811 for proposed temporary shop and services (real estate agency) and Application No. A/YL-TYST/821 for proposed temporary plant nursery and shop and services (retail shop for plants) were approved with conditions by the Committee on 14.10.2016 and 13.1.2017 respectively. However, permission for the latter application was subsequently revoked due to non-compliance with approval conditions.

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

8.1 The Site is:

- (a) accessible from Kung Um Road to its east via a strip of Government land (GL) and through a man-gate at its eastern boundary;
- (b) irregular in shape, paved and fenced-off; and
- (c) currently occupied for the applied use with valid planning permission under Application No. A/YL-TYST/706.

8.2 The surrounding areas have the following characteristics:

- (a) predominately open storage yards intermixed with a vehicle repair workshop, warehouse and storages, and scattered residential structures;
- (b) to its west and southwest in the “U” zone are 2 open storage yards and a warehouse operated with valid planning permissions under Applications No. A/YL-TYST/711, 791 and 807;
- (c) to its immediate north is the Drainage Services Department Lung Tin Sewage Pumping Station;
- (d) there are residential dwellings/structures within the “Village Type Development” (“V”) zone covering Tin Liu Tsuen to the south, with the nearest one located about 45m from the Site;
- (e) to its further east and southeast across Kung Um Road, the nullah and Kiu Hing Road are areas zoned “Open Space” (“O”) and “V” on the approved Tai Tong OZP No. S/YL-TT/16; and
- (f) the other open storage yard, warehouse, storages and workshop in its vicinity are mostly suspected unauthorized development subject to enforcement action taken by the Planning Authority

9. Planning Intention

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic from the proposed development. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

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 Scheduled Agricultural Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 2849 RP in D.D. 120 is covered by a Short Term Waiver (STW) No. 4038 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) The Site is accessible to Kung Um Road via GL. His office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holder will need to apply to his office for modification of the STW if there is any irregularities on the STW site. Such application(s) 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.
- (f) The programme of land resumption would follow the project office's programme notwithstanding the validity period of the planning permission to be granted.

Traffic

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

The applicant is reminded no parking and queuing of vehicles on public road is allowed.

Environment

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

The latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department should be observed by the applicant.

Landscape

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

- (a) The Site is located east of Tin Lung Yuen and north of Sun Mei Garden and falls within “U” zone on the Draft Tong Yan San Tsuen OZP No. S/YL-TYST/11. The application seeks approval for renewal of planning approval of a previous application (No. A/YL-TYST/706).
- (b) The Site is surrounded by a mix of open storage sites, warehouses and carparks. Based on the submission, the Site is occupied by a temporary structure and several mature trees are located along the site boundaries to be retained. The continuous use is not incompatible with the surrounding environment. Therefore, he has no objection to the application from the landscape planning point of view.
- (c) Should the Town Planning Board (the Board) approve this application, in view of the above, he would recommend the approval condition for maintenance of all existing trees and landscape plantings within the Site at all times be applied in the planning permission.
- (d) The applicant is reminded to conduct routine vegetation maintenance works, such as irrigating the trees and removing weeds regularly throughout the period. Fence and/or kerb or bollard should be constructed with a minimum distance of 1m around the planting areas to guard against damage to the trees and shrubs. The applicant should make reference to “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Conditions for Approved Applications for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”.
- (e) The applicant shall take reference to the following information/guideline published by the Greening, Landscape and Tree Management Section, Development Bureau for tree maintenance: 私人物業樹木護理資料 Information About Tree Maintenance for Private Properties (https://www.greening.gov.hk/tc/tree-care/Handbook_on_Tree_Management.html), 護養樹木的簡易圖解 Pictorial Guide for Tree Maintenance (https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf).

Drainage

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

- (a) Based on the submission enclosed in the application, the applicant would maintain the existing drainage facilities.
- (b) In view of the above, he has no objection in principle to the applied development. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and submission of a record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

10.1.6 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.
 - (ii) The location of where the proposed FSIs to be installed 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 services requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

10.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

Water mains in the vicinity of the Site cannot provide the standard pedestal hydrant.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the structures existing at the site and BD is not in a position to

offer comments on their suitability for the use related to the application.

- (b) The applicant's attention is drawn to the following points:
- (i) If the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) 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 works or UBW on the Site under 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.
 - (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 B(P)R at the building plan submission stage.

Long-term Development

10.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls partly within an area zoned as "Other Specified Uses" ("OU") annotated "Refuse Collection Point and Sewage Pumping Station" and partly within an area shown as "Road".

- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.10 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

The Site partly falls within area designated for proposed new road on the RODP of YLS Development which was promulgated on 8.8.2017. The proposed new road is required to support the public housing sites under YLS Development – stage 1 and the current target is to have the first population intake by 2027/28. While we have no objection to the temporary uses at the site, we do not support the approval for 3 years. Nevertheless, we do not envisage adverse impacts to the YLS Development project if the application is approved for temporary period of 30 months. Hence, we do not have objection to an approval for 30 months.

Others

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

- (a) He has no comment on the application as far as electricity supply safety and reliability are concerned.
- (b) For the design and operation of electricity package substation, CLP Power has to comply with the Electricity Ordinance and relevant statutory requirements. As the electricity package substation is to provide electricity supply to some future developments in the vicinity, the associated electricity demand should be provided by the nearby substation as far as possible. The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of electricity supply lines.

District Officer’s Comments

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

The local consultation has been completed and his office has not received any comments from the village representatives in the vicinity regarding the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2018, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The subject application is for renewal of the planning permission under previous Application No. A/YL-TYST/706 for temporary shop and services (real estate agency) at a site zoned “U” on the OZP. The planning intention of the “U” zone is generally intended for open storage use but is designated this zoning mainly due to concerns of the capacity of Kung Um Road. Whilst the applied development is not entirely in line with the planning intention of the “U” zone, the applicant claims that it could provide real estate agency service to the nearby land owners and operators. Whilst the Site falls within an area designated for “OU” annotated “Refuse Collection Point and Sewage Pumping Station” and partly within an area shown as “Road” on the RODP of YLS, CE/CID, PlanD and PM(W), CEDD does not raise objection to the application. However, PM(W), CEDD considers a shorter approval period of 30 months, instead of 3 years sought, should be granted if the application was approved in view of the programme of the YLS Development. However, DLO/YL advises that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. As such, approval of the application on a temporary basis would not jeopardize the long-term development of the area. Should the application be approved, the applicant should be advised that the Site may be subject to land resumption for the implementation of YLS which may take place at any time before the expiry of the temporary planning permission.
- 12.2 The applied development is not incompatible with the surrounding uses which are predominantly open storage yards intermixed with a vehicle repair workshop, warehouse and storages, and scattered residential structures (**Plan A-2**).
- 12.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-TYST/706; the approval conditions have been complied with; and the 3-year approval period sought is of the same timeframe as the previous approval.

- 12.4 Government departments consulted, including DEP, C for T, CTP/UD&L, PlanD, CE/MN of DSD, and D of FS, have no objection to or adverse comment on the application. Significant adverse environmental, traffic, landscape and drainage impacts on the surrounding area are not envisaged. To minimize any possible environmental nuisances generated by the temporary use or to address the technical requirements of other concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 12.5 Given that the Committee has approved one application (No. A/YL-TYST/706) for the same use covering the same site and 2 other similar applications in the same part of the “U” zone, approval of the renewal application is also in line with the Committee’s previous decisions.
- 12.6 There is no public comment received on the application during the statutory publication period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary shop and services (real estate agency) 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 further period of 3 years from 14.3.2018 to 13.3.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at

all time during the approval period;

- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.6.2018;
- (h) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.9.2018;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.12.2018;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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;
- (k) if any of the above planning conditions (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; and
- (l) 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.

[Approval conditions (a), (b), (c), (h) and (i) are the same as those under the permission for Application No. A/YL-TYST/706, while conditions (d) to (g) are updated to accord with the departments' latest requirements.]

Advisory clauses

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

13.3 There is no strong reason to recommend rejection of the application.

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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 6.12.2017
Appendix Ia	Supplementary Planning Statement
Appendix II	Relevant extract of the Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous applications covering the application site
Appendix IV	Similar Applications within the Same “U” Zone on the OZP
Appendix V	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-planted Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**