

RNTPC Paper No. A/YL-NTM/410
For Consideration by
the Rural and New Town Planning
Committee
on 4.12.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/410

- Applicant** : Clever Field Development Limited represented by Lanbase Surveyors Limited
- Site** : Lots 2781 RP, 2782 RP, 2783 RP, 2785 RP, 2786 RP, 2787 RP, 2788 RP, 2789, 2791, 2792, 2793 S.A, 2793 S.B, 2794, 2795, 2962 RP and 2963 RP in D.D. 102 and adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
- Site Area** : about 5,000 m² (including 300 m² of Government Land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Open Storage” (“OS”)
- Application** : Renewal of Planning Approval for Temporary Public Vehicle Park (including Container Vehicles) and Ancillary Tyre and Repairing Use for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary public vehicle park (including container vehicles) and ancillary tyre and repairing use for a period of 3 years. According to the Notes of the OZP, ‘Container Vehicle Park/Container Vehicle Repair Yard’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site is the subject of 8 previous applications. The last application (No. A/YL-NTM/348) for the same applied use with the same layout, submitted by the current applicant, was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 8.12.2017 for a period of 3 years until 8.12.2020. All the approval conditions have been complied with.
- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, the

ingress/egress to the Site is located at the eastern boundary abutting Kwu Tung Road (**Plan A-2**). A total of 3 structures of 1 to 2 storeys (not more than 8m) with a total floor area of about 274.28m² are erected for ancillary vehicle repair and tyre workshops and a site office. The Site accommodates 25 parking spaces for container vehicles, 2 parking spaces for light goods vehicles (LGV) and 3 parking spaces for private cars, two ancillary vehicle repairing workshops with building height at 1-storey and 2-storey, and a 2-storey site office. The operation hours are between 7:00 a.m. and 11:00 p.m. from Mondays to Saturdays and 10:00 am to 5:00 pm on Sundays and public holidays.

- 1.4 The current application is the same as the last approved application in terms of applied use, site area, total floor area, number of structures, number of parking spaces and opening hours.
- 1.5 In support of the application, the applicant has submitted the following:
 - (a) Application form with supplementary pages received on 12.10.2020 (**Appendix I**)
 - (b) Supplementary Planning Statement (**Appendix Ia**)
 - (c) Further Information (FI) dated 12.11.2020 providing Certificate of Fire Service Installations (FSIs) and photographic record of existing drainage facilities (*exempted from publication requirement*) (**Appendix Ib**)
 - (d) FI dated 30.11.2020 providing letter with Certificate of FSIs and FSIs proposal (*exempted from publication requirement*) (**Appendix Ic**)

2. Justifications from the Applicant

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

- (a) The Site was granted planning permissions for the same use of ‘temporary public vehicle park (including container vehicle) and ancillary tyre and repairing use’ under seven previous planning applications submitted by the current applicant. Without major change in planning circumstances, it is considered that the site should be allowed for the applied use.
- (b) All the approval conditions imposed on the previous Application No. A/YL-NTM/348 have been satisfactorily complied with, including the submission and implementation of FSIs proposals, drainage proposal and buffer area proposal. The applicant had demonstrated genuine efforts to comply with the approval conditions of previous planning application, and favourable consideration should be given to the application.

- (c) There are planning permissions for similar temporary vehicles parks and other port back-up uses in the surrounding “OS” sites in the past two years. Given that similar planning applications were approved in the surrounding “OS” sites, the proposed application should be allowed. Besides, the applied use is compatible with the surrounding parking facilities and port back-up uses.
- (d) The Site is designated as Category 1 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) and favourable consideration would normally be given to Category 1 areas. The proposed application should be approved if there are no major adverse departmental comments and local objections.
- (e) The Site has been operated for the applied use for many years and the proposed application generally reflects the existing site conditions for providing both private car and container vehicle parking spaces. No additional traffic, drainage and environmental impacts are anticipated.

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

The applicant is not a “current land owner” of the private land portion of the Site 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 the notification letter to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government Land (GL) portion of the Site, the “Owner’s Consent/Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13F)

- 4.1 According to TPB PG-No. 13F, the Site falls within Category 1 areas under the guidelines. The following criteria are relevant (**Appendix II**):

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

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. 34C)

- 4.2 According to TPB PG-No. 34C, the relevant assessment criteria are summarized as

below:

- (a) whether there has been any material change in planning circumstance since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable;
- (e) any other relevant considerations;
- (f) the approval period for renewal should not be longer than the original validity period of the temporary approval.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of 8 previous planning applications for temporary vehicle parks with or without repair activities, all were approved with conditions between 1993 and 2017. Details of these applications are summarized at **Appendix III**, and their locations are shown on **Plan A-1b**.
- 6.2 Application No. DPA/YL-NTM/10 for temporary container vehicle park was approved by the Committee for a period of 3 years in 1993 on considerations that it was generally in line with the long term planning intention and the proposed use was compatible with the nearby open storage uses.
- 6.3 Applications No. A/YL-NTM/11, 121, 185, 229, 266, 307 and 348 submitted by the current applicant, for similar applied uses of temporary container trailer/tractor park/public vehicle park (including container vehicles) with or without ancillary tyre and repairing use were approved with conditions by the Committee between 1996 and 2017 for a period of 3 years (5 years for A/YL-NTM/11) on considerations that they were generally in line with the planning intention and the TPB Guidelines for Application for Open Storage and Port Back-up Uses; the applied use was compatible with the land uses of the surrounding areas; there was generally no adverse departmental comment; and departmental comments could be addressed by imposing approval conditions. For the last application No.

A/YL-NTM/348, all the approval conditions have been complied with.

7. **Similar Applications**

There are 32 similar applications for temporary port back-up uses, including cargo handling and forwarding facility, container vehicle and lorry park, container storage and repairing workshops within the same “OS” zone (**Plan A-1a**) since the promulgation of TPB PG-No. 13E on 17.10.2008. 27 of them were approved by the Committee between 2009 and 2019 taking into consideration that the applied uses were not incompatible with the surrounding uses and there were no adverse departmental comments. Amongst these approved applications, 8 were subsequently revoked due to non-compliance with approval conditions. 5 applications were rejected by the Committee between 2009 and 2013 mainly for the reasons that the developments were not in line with the then TPB-PG No. 13E in that there were adverse departmental comments and objection from local residents, and no technical assessment was submitted to demonstrate that the proposed development would not have adverse environmental, drainage and traffic impacts on the surrounding area. Details of these applications are summarized at **Appendix IV**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) located near a slip road of San Tin Highway to Kwu Tung Road; and
- (b) currently used for goods vehicle and container vehicle park with tyre repairing workshop with valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) to the north across the slip road is San Tin Highway;
- (b) to the east and north-east across Kwu Tung Road are unused land and nullah;
- (c) to its immediate south are a temporary container vehicle park with ancillary facilities (under approved Application No. A/YL-NTM/380), open storage of recycling material and parking of container vehicles; further south are scattered residential dwellings (nearest is about 28m away) mixed with storage/open storage uses and unused land; and
- (d) to the immediate west are open storage of construction materials and recycling materials, vehicle repair workshop and the San Tin Highway.

9. **Planning Intention**

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of

open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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 GL and Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) No permission is given for occupation of GL of about 300 m² in area (subject to verification) included into the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) The private land of Lot Nos. 2794 and 2963RP in D.D. 102 are covered by a Short Term Waiver (STW) No. 2796 to permit structures for the purpose of "Ancillary use to container tractor/trailer park with ancillary vehicle repair workshop".
- (d) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The applicant has to either exclude the remaining GL from the application site or apply for a formal approval prior to the actual occupation of the remaining GL. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularity on site, if any. Besides, given the proposed uses are temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) The Site is connected to Kwu Tung Road via a section of local access which is not managed by TD. The land status of the local access should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following condition should be incorporated:
 - No vehicle is allowed to queue back to or reverse onto/from the subject site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Kwu Tung Road should be commented by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the application site and Kwu Tung Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site falls within the Administrative Route Protection (APR) Boundary and Area of Influence (AOI) of the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the ARP Boundary and AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL. He has no objection in principle to the subject application from the development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

Environment

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

- (a) According to the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses', he does not support the application as there are sensitive uses in the

vicinity of the Site (the closest residential dwelling being about 28m to its south) (**Plan A-2**) and environmental nuisance is expected.

- (b) The applicant is advised to follow the environmental mitigation measures as recommended in the latest “COP” in order to minimize the potential environmental impacts on the surrounding area.
- (c) No environmental complaint pertaining to the Site has been received over the past 3 years.

Landscape

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

Noting the Site is within Category 1 area under TPB PG-No. 13F and there is no significant landscape resources within the Site, no significant landscape impact is envisaged.

Nature Conservation

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

- (a) He has no comment from nature conservation perspective as the Site has been paved and the subject application is seeking to continue the current use.
- (b) He notes that half of the Site is surrounded by mature trees. Should the application be approved, the applicant is advised to avoid damaging the trees in the vicinity during operation.

Drainage

10.1.8 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 noted that the applicant implemented the drainage facilities on site under previous approved Planning Application No. A/YL-NTM/348. The relevant drainage proposal and implementation works were considered satisfactory at the time. He noted from the application document that the Site is identical to the last application. In this respect, the applicant is asked to provide DSD a set of latest record photographs showing the completed drainage works (including the internal condition of the drains) with the corresponding photograph locations marked clearly on the approved drainage plan. 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 regarding all the proposed drainage works outside the site boundary in order to ensure 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 Safety

10.1.9 Comments of the Director of Fire Services (D of FS):

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Building Matters

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

- (a) He has no in-principle objection under the BO to the applied use at the Site.
- (b) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use related to the application.
- (c) The following issues should be observed by the applicant:
 - (i) If the existing structures are erected on leased land without approval of the BD, they are unauthorized under the BO and

should not be designated for any approved use under the application.

- (ii) Before any new building works (including site offices as temporary buildings) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person 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 BA to affect 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 the B(P)R at the building plan submission stage.

District Officer's Comments

10.1.11 Comments of the District Officer/Yuen Long (DO/YL):

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

10.2 The following Government departments have has no comment on or no objection to the application:

- (a) Project Manager/New Territories North and West, Civil Engineering and Development Department (PM/NTN&W, CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (HGEO, CEDD);
- (f) Director of Food and Environmental Hygiene (DFEH); and
- (g) Director of Electrical and Mechanical Services (DEMS).

11. Public Comment Received During Statutory Publication Period

On 23.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 1 public comment was received from an individual (**Appendix V**) objecting to the application that the proposed car park will increase traffic volume, and affecting pedestrian safety and the living environment of the local villages.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for a temporary public vehicle park (including container vehicles) and ancillary tyre and repairing use for 3 years in “OS” zone. The applied use is generally in line with the planning intention of the “OS” zone, which is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. The applied use is considered compatible with the surrounding land uses which are mostly storages/open storages, container vehicle park and vehicle repair workshop (**Plans A-2 and A-3**).

12.2 The Site falls within Category 1 areas under the TPB PG-No. 13F where favourable considerations will normally be given to the application. The development is in line with the TPB PG-No. 13F in that there is generally no adverse comment from the concerned Government departments including C for T, HyD, DAFC, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. The technical concerns from CE/MN of DSD, D of FS and C for T can be addressed by imposing the approval conditions recommended in paragraphs 13.2 (d) to (g) below should the Committee decide to approve the application. The application was not supported by DEP as the nearest residential dwelling is at about 28m to the south of the Site (**Plan A-2**). However, there was no environmental complaint against the Site in the past 3 years. To address DEP’s concern and mitigate any potential environmental impacts, approval conditions on restriction on operation hours and on preservation and maintenance of existing trees and landscape planting on the Site are recommended in paragraphs 13.2 (a), (b), and (c) below. Besides, the applicant will also be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses’ to minimize the possible environmental impacts on the adjacent areas.

12.3 The application is in line with TPB PG-No.34C in that previous approval (Application No. A/YL-NTM/348) for the same applied use was granted on 8.12.2017 and all the approval conditions have been complied with. Compared with the last approved application, the current application is the same in terms of use, floor area and layout. Besides, there is no major change in planning circumstances since the last approval.

12.4 As detailed in paragraph 7, the Committee has approved 32 similar applications within the same “OS” zone (**Plan A-1a**) for temporary port back-up uses, including container vehicle and lorry parks, container storage and repairing workshops

within the same “OS” zone since the promulgation of TPB PG-No. 13E in October 2008. The Committee has previously approved 8 previous applications for the same/similar use at the Site as set out in paragraph 6. The last approved application No. A/YL-NTM/348 was submitted by the same applicant as the current one for the same use and the applicant has complied with all the approval conditions. Approval of the subject application is in line with the previous decisions of the Committee.

12.5 One public comment was received during the statutory publication period, objecting to the application. The departmental comments and planning assessments above are relevant.

13. Planning Department’s Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the temporary public vehicle park (including container vehicles) and ancillary tyre and repairing use 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, and be renewed from 9.12.2020 to 8.12.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions:

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 7:00 a.m. and 10:00 a.m. and between 5:00 p.m. and 11:00 p.m. on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing trees and landscape planting on the Site should be preserved and maintained at all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (e) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning 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 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 9.3.2021;

- (h) 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; and
- (i) if the above planning condition (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.

[The above approval conditions are similar to those in the planning approval of the last Application No. A/YL-NTM/348, except those on traffic, drainage and FSIs are revised according to the comments of C of T, CE/MN of DSD and D of FS]

Advisory Clauses:

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

- 13.3 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 revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) in that there is adverse comment from concerned government department and that no technical assessment has been submitted to demonstrate that the development would not have adverse environmental impact on the surrounding sensitive receivers.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning 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

Appendix I
Appendix Ia

Application form received on 12.10.2020
Supplementary Planning Statement

Appendix Ib	FI dated 12.11.2020
Appendix Ic	FI dated 30.11.2020
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same “OS” zone on the Ngau Tam Mei OZP
Appendix V	Public Comment received during the Statutory Publication
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Site plan with previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2020**