

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

APPLICATION NO. A/YL-TYST/893

<u>Applicant</u>	: Mr. FONG Chi Wing represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1241 (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 899 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>	: “Undetermined” (“U”)
<u>Application</u>	: Renewal of Planning Approval for Temporary "Warehouse for Storage of Construction Materials, Carpets and Porcelains with Ancillary Office" for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office at the application site (the Site) for a further period of 3 years (**Plan A-1a**). The Site is currently occupied by the applied use and is covered by a valid planning permission under Application No. A/YL-TYST/741 valid until 3.7.2018 (**Plans A-2 and A-4**).
- 1.2 The Site was involved in 5 previous applications (No. A/YL-TYST/237, 361, 429, 566 and 741) for the same use as the current application, covering sites of different extents (**Plan A-1b**). Details of these previous applications are at paragraph 5 below and **Appendix II**. 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 remain unchanged.
- 1.3 The Site is accessible via a local track leading from Kung Um Road to its east with an ingress/egress provided at the northern periphery of the Site (**Plan A-3 and Drawing A-1**). According to the applicant, the applied development is for storage of construction materials, carpets and porcelains within the warehouse structure.

The applicant undertakes that there will be no repairing, dismantling, cleaning and workshop activities to be carried out at the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation proposal and as-built drainage facilities submitted by the applicant are shown in **Drawings A-1 to A-4** respectively.

- 1.4 The major development parameters of the application are the same as the previously approved application No. A/YL-TYST/741 and are summarized as follows:

Site Area	About 899m ²
Total Floor Area (Non-domestic)	About 638m ²
No. of Structures	3 (for warehouse with ancillary office and meter rooms uses)
Height of Structure	3m to 7m (1 storey)
Parking Space(s)	Nil
Loading/Unloading Space(s)	1 (for medium goods vehicle)
Operation Hours	9:00 a.m. and 6:00 p.m. Mondays to Saturdays, with no operations on Sundays and public holidays

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

- (a) Application Form received on 3.4.2018 **(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 the justifications section of the Supplementary Planning Statement (**Appendix Ia**). They can be summarized as follows:

- (a) The Site is subject to 5 previous planning permissions since 2005 (No. A/YL-TYST/237, 361, 429, 566 and 741) for the same use as the current application. The last planning permission will expire on 3.7.2018. As such, the applicant submits the current application.
- (b) The Site is zoned “U” on the OZP of which the planning intention is to cater for the continuing demand for open storage uses which cannot be accommodated in conventional godown premises. The applied development would not jeopardize the long-term planning intention of the area. Moreover, the Site is overwhelmingly situated within the “Category 1 Areas”, which is considered suitable for open storage and port back-up uses.

- (c) The proposed development is compatible with the surrounding environment, which is filled with open storage yards and warehouses, including approved applications No. A/YL-TYST/751, 754, 796, 797, 798 & 806.
- (d) The applicant has complied with all planning conditions imposed to the last planning permission, which demonstrates his sincerity.
- (e) The planning circumstance pertaining to the Site remains unchanged since the approval of the last planning permission in 2015.
- (f) The 11 trees planted for previous planning permission are in good condition and will be preserved. Existing drainage facilities implemented for previous planning permissions will be maintained by the applicant at his own expense.
- (g) No heavy goods vehicles exceeding 24 tonnes, including container tractor/trailer is allowed to enter or park at the Site. Actual traffic generation and attraction of the development is low.
- (h) The applied development would not generate significant environment impact. The operation hours are 9:00 a.m. to 6:00 p.m., with no operation on Sundays and public holidays. No storage will be carried out at the uncovered area of the Site. No repairing, dismantling, cleaning and any other workshop activities would be carried out.

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 through 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 currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in 5 previous applications (No. A/YL-TYST/237, 361, 429, 566 and 741) for the same use as the current application. Details of the applications are summarized in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

- 6.2 Application No. A/YL-TYST/ 237, 361, 429, 566 and 741 were approved by the Committee on 28.5.2004, 14.9.2007, 22.5.2009, 15.6.2012 and 3.7.2015 respectively. However, the planning approvals for Applications No. A/YL-TYST/361 and 429 were revoked on 14.9.2008 and 22.10.2011 respectively due to non-compliance with the approval conditions on the fire safety aspect. All the time-limited approval conditions under the last permission (No. A/YL-TYST/741) have been complied with and the permission is valid up to 3.7.2018.
- 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 remain unchanged.

7. Similar Applications

- 7.1 A total of 90 similar applications for various types of temporary warehouse with/without open storage and/or ancillary workshop and/or logistics centre uses in this part of the “U” zone had been considered by the Committee or the Board on review since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 There are 89 approved applications for temporary warehouse with/without open storage and/or ancillary workshop uses approved. However, amongst these approved applications, 28 were revoked due to non-compliance with approval conditions.
- 7.3 There is one application rejected mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.

8. The Site and Its Surrounding Areas (Plans A-1a and A-2 to A-4)

- 8.1 The Site is:
- (a) accessible via a local track leading from Kung Um Road to its east (**Plan A-3**); and
 - (b) paved and currently occupied for the applied use with valid planning permission (**Plans A-2 and A-4**).
- 8.2 The surrounding areas have the following characteristics:
- (a) mixed with open storage yards, warehouses, vehicle repairing workshop, scattered residential structures, vacant structures, refuse collection point and unused land;
 - (b) there are scattered residential structures in its vicinity with the nearest one located to its immediate southeast (**Plan A-2**);
 - (c) about 40m to its east is a nullah with Kung Um Road and Pak Sha Shan Road on its sides;

- (d) there are a number of warehouses located to the north, northeast, south, southwest and northwest of the Site which are operated with planning approvals under Applications No. A/YL-TYST/751, 752, 754, 773, 796, 797, 798 and 833; and
- (e) except for an open storage yard to its west and the vehicle repair workshop to its northeast which are “existing uses” tolerated under the Town Planning Ordinance, the other open storage yards and warehouses in the vicinity are 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 Schedule 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. 1241 in D.D. 119 is covered by Short Term Waiver (STW) No. 3193 to permit structures erected thereon for the purpose of “Warehouse with Ancillary Office”.
- (c) The Site is accessible to Kung Um Road via government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions if there is any irregularities on site. Such application(s) will be considered by her department acting in the capacity as the 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 her department.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located to its immediate southeast) (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant should also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-TYST/741.
- (b) In view of the above, he has no objection in principle to the proposed 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 records 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. The applicant should 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) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.7 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 his department 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 his department, they are unauthorized under the BO and should not be designated for any approved use under the captioned application.

- (ii) Before any new building works (including containers as temporary buildings) are to be carried out on the Site, the 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 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.
- (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 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 4.5 wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

10.1.8 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 within an area zoned as "Amenity" ("A") and 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. As regard the implementation programme of YLS, he would leave it for CEDD to advise.

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

He has no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities. However, the Site falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 3 Works. While the detailed implementation programme for the project is still being formulated, based on the Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

District Officer's Comments

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

The local consultation was completed on 2.5.2018 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 comment to the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 10.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.5.2018, 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/741 for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office at the Site zoned "U" on the OZP. The applied use is not in conflict with the planning intention of the "U" zone on the OZP which is generally intended to cater for the continuing demand for open storage which cannot be accommodated in

conventional godown premises but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area zoned as “A” as well as an area shown as ‘Road’ on the RODP of YLS promulgated on 8.8.2017, CE/CID of PlanD does not raise objection to the application and PM(W) of CEDD has no objection to the proposed temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the area.

- 12.2 The subject “U” zone is mainly occupied by similar open storage yard and warehouse uses (**Plan A-2**). As such, the proposed development is not incompatible with the surrounding uses in the subject “U” zone.
- 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/741; 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 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site, with the nearest one located to its immediate southeast (**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned government departments, relevant approval conditions are 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact and to keep the Site clean and tidy at all times.
- 12.5 As the Committee has approved 5 previous applications for the same use covering the Site and 89 similar applications for warehouse uses in the vicinity of the Site, approval of the subject application is considered 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, the Planning Department considers that the temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office 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

4.7.2018 to 3.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 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 repairing, dismantling, cleaning or other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 4.10.2018;
- (i) 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 4.1.2019;
- (j) in relation to (i) 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 4.4.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (h), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

- (m) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[Approval conditions (a) to (j) are the same as those under the permission for Application No. A/YL-TYST/741.]

Advisory clauses

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

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

the applicant fails to demonstrate that the proposed development would not generate adverse environmental impact on the surrounding areas.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 3.4.2018
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 in this Part of the "U" Zone on the Tong Yan San Tsuen OZP since the Promulgation of TPB PG-No. 13E
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation Plan
Drawing A-4	As-Built Drainage Plan

Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**