

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/920

<u>Applicant</u>	: Mr. YAU Wai Pan represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 1008 (Part), 1009 (Part) and 1010 (Part) in D.D. 119, Yuen Long, New Territories
<u>Site Area</u>	: 360 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 (at the time of submission) Approved Tong Yan San Tsuen OZP No. S/YL-TYST/12 (currently in force)
<u>Zoning</u>	: “Undetermined” (“U”) [no change to the “U” zone]
<u>Application</u>	: Proposed Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of construction materials for a period of 3 years. The Site falls within an area zoned “Undetermined” (“U”) on the OZP. According to the Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). There are currently works in progress on the Site (**Plans A-2 and A-4**). The Site is not subject to any previous applications.
- 1.2 The major development parameters of the current application are summarized as follows:

Proposed Use	Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years
Site Area	360 m ² (about) <ul style="list-style-type: none"> • Uncovered Area: not exceeding 40 m² • Covered Area: not exceeding 320 m²
Total Floor Area (Non-domestic)	Not exceeding 320 m ²
No. and Height of Structures	2 <ul style="list-style-type: none"> • for storage of construction materials (not exceeding 10m, 1 storey)
Loading/Unloading Space	1 (for light goods vehicle)
Operation Hours	10:00 a.m. to 4:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays

1.3 The Site is accessible from Kung Um Road to its east via a local track (**Drawing A-1 and Plans A-2 and A-3**). According to the applicant, the applied use is for storage of construction materials, including tiles, sanitary wares, pipes and alike. The applicant undertakes that no open storage, repairing, dismantling and workshop activities will be carried out. Also, no vehicle exceeding 5.5 tonnes, including medium and heavy goods vehicles and container trailer/tractor, would be allowed to enter the Site. Plans showing the vehicular access leading to the Site, the site layout and the drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 23.8.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 23.8.2018 **(Appendix Ib)** clarifying the site area with replacement pages
- (c) Further Information dated 21.9.2018 responding to the **(Appendix Ic)** Transport Department's comments
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) With reference to the Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13E), the Site falls within Category 1 areas which is considered suitable for open storage and port back-up uses. Preliminary technical assessments on traffic, drainage, visual and

environmental aspects are provided in the submission to demonstrate that the development would not generate adverse impacts on the surrounding areas. The proposed development would not generate queueing of traffic outside the ingress/egress and along the routing leading to the Site. No excessive or on-going operative noise will be emitted from the proposed development. It is considered that the development has fulfilled the guidelines to a large extent and should be given favourable consideration by the Board.

- (b) The development is in line with the planning intention of the “U” zone which is to cater for the continuing demand for open storage uses which cannot be accommodated in conventional godown premises.
- (c) There is a shortage of land for open storage use in Tong Yan San Tsuen because the 4.75 ha “Open Storage” (“OS”) zone is already fully occupied. The “U” zone where the Site falls within is considered in general satisfaction for open storage use as revealed by the study commissioned by the Government.
- (d) The “U” zone where the Site falls within is currently mainly filled with open storage uses and warehouse, and most of the applications were previously approved by the Board. With the provision of environmental mitigation measures, the applied development would generate no significant impact to its surroundings.
- (e) Similar temporary developments in close vicinity of the Site were granted with planning approval by the Board, including Applications No. A/YL-TYST/751, 752, 754, 777, 801, 806, 831, 867 and 849. The proposed use is very similar to the approved uses in terms of nature and planning circumstances except that it is smaller in scale. As such, the Board’s earlier decisions reflect that the applied use may be tolerated provided that adequate mitigation measures are proposed to minimize degradation of the surrounding environment.
- (f) There will be insignificant traffic, environmental and drainage impacts. The negligible increase in traffic would not aggravate the traffic condition of Kung Um Road and nearby road network. No frequent traffic or generation of noise due to loading/unloading of goods and associated traffic is anticipated. No workshop activities will incur within the Site and the applicant would follow the ‘Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites’ where applicable. Drainage proposal (Annex 1 of **Appendix Ia** and **Drawing A-3**) is provided in the submission to demonstrate that the Site would not generate adverse drainage impacts. All the proposed drainage facilities would be provided and maintained by the applicant at his own expense.

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. Background

The Site is not subject to planning enforcement action.

5. Previous Application

The Site was not involved in any previous application.

6. Similar Applications

6.1 A total of 100 similar applications for various types of temporary warehouse with/without open storage and/or ancillary site office uses in this part of the “U” zone had been considered by the Committee since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

6.2 There are 99 approved applications for temporary warehouse with/without open storage and/or ancillary workshop uses. However, amongst these approved applications, 35 were revoked due to non-compliance with approval conditions.

6.3 There is one application rejected mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.

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

7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east; and
- (b) currently under works in progress.

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) mixed with warehouses, open storage/storage yards, workshops, vehicle park, scattered residential structures, unused and vacant land;
- (b) there are scattered residential structures in its vicinity with the nearest one located to its northwest (about 20 m away); and
- (c) except for the open storage yard/warehouses/vehicle repair workshop operating under valid planning permissions No. A/YL-TYST/777, 831, 879 and 881 respectively, and the open storage/storage yards located to the northeast of the Site which may be tolerated under the Town Planning Ordinance, the other warehouses, open storage/storage yards, workshop and vehicle park in the vicinity are suspected unauthorised developments subject to enforcement action taken by the Planning Authority.

8. 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 generated 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.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application 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 Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible 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 to the Site.
- (c) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her Office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her Department 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(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

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

- (a) The working hours should be restricted from 10:00 a.m. to 4:00 p.m. on Mondays to Saturdays only and no operation on Sundays and public holidays.

- (b) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailers, should be allowed to park or enter/exit the Site.
- (c) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (d) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (e) The applicant is reminded that sufficient space should be provided within the application site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 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

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should 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

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (Annex I of **Appendix Ia** and **Drawing A-3**). Nevertheless, the applicant should be reminded to note the following:

- (i) the applicant should implement the drainage facilities on site in accordance with the agreed drainage proposal.
 - (ii) the applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the drainage system.
 - (iii) the proposed development would neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.
 - (iv) the applicant should consult DLO/YL and seek consent from relevant lot owners for any works to be carried out outside his lot boundary before commencement of the drainage works.
- (c) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 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 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) 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

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

The applicant's attention is drawn to the following points:

- (a) 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 his department should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by his Department to effect their removal in accordance with his Department's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (d) 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 Building (Planning) Regulation at the building plan submission stage.

Others

9.1.8 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 areas zoned as "Local Open Space" ("LO") and "Residential – Zone 2" ("R2").
- (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.

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

He has no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provision 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

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

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

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

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

10. Public Comment Received During the Statutory Publication Period

On 31.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.9.2018, a public comment (**Appendix III**) was received from a Yuen Long District Councillor, objecting to the application without providing specific grounds.

11. Planning Considerations and Assessments

11.1 The subject application is for proposed temporary warehouse for storage of construction materials 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 for open storage use 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 areas zoned as "LO" and "R2" on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), 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 jeopardise the long-term development of the area.

11.2 The subject "U" zone is mainly occupied by similar warehouses, open storage/storage yards and workshop uses, and similar uses are found in the vicinity

of the Site (**Plan A-2**). As such, the development is not incompatible with the surrounding uses in the subject “U” zone.

- 11.3 There is no adverse comment on the application from concerned government departments and there has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. 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 minimise any potential environmental impact and to keep the Site clean and tidy at all times.
- 11.4 Given that 99 similar applications have been approved in this part of the “U” zone, approval of the current application is considered in line with the Committee’s previous decisions.
- 11.5 There is one public comment raising objection to the application as summarised in paragraph 10 above. The planning considerations and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of construction materials could be tolerated for a period of 3 years.
- 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 19.10.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 4:00 p.m. and 10:00 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 or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, 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 implementation of the accepted 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 19.4.2019;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.4.2019;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.7.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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;
- (k) if any of the above planning conditions (f), (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.

Advisory clauses

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

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

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 23.8.2018
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 23.8.2018 clarifying the site area with replacement pages
Appendix Ic	Further Information dated 21.9.2018 responding to the Transport Department's comments
Appendix II	Similar Applications in this Part of the "U" Zone on the OZP since the Promulgation of TPB PG-No. 13E
Appendix III	Public Comment Received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Plan showing the vehicular access leading to the Site
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2018**