

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/955

<u>Applicant</u>	: Mr. CHEUNG Hon Man represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1064 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 300m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Temporary Open Storage of Construction Material with Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction material with ancillary site office for a period of 3 years (**Plan A-1**). 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). The Site is currently occupied for the applied use without a valid planning permission (**Plans A-2, A-4a to A4b**).
- 1.2 The Site was the subject of a previous application (No. A/YL-TYST/697) on a much larger site for the same applied use as the current application. This application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 17.10.2014 for a period of 3 years. All the approval conditions have been complied with and the planning permission has since lapsed on 18.10.2017. Details of the previous application are at paragraph 6 and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use with a modification in site layout and on a smaller site.
- 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 southern boundary (**Plans A-2, A-3 and Drawing A-1**). According to the applicant, the construction materials stored on Site is mainly

metal pipes. No dismantling, cleaning, repairing or workshop activities would be carried out within the Site. Furthermore, no handling of hazardous electrical/electronic appliances/components, including cathode-ray tubes (CRT), CRT computer monitors/television sets and CRT equipment will be allowed on the Site. The access area of the site frontage and the entire area of the Site have been hard paved to avoid any fugitive dust impact. Given the limited size of the Site, the traffic generation and attraction would be minimal. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, will be permitted to enter/be parked at the Site. Also, the applicant undertakes to preserve all existing trees and plant additional trees on Site, as well as maintain all existing drainage facilities in good condition and at his own expense. Plans showing the vehicular access to the Site, the site layout, landscape and tree preservation proposal and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-4**.

1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/697 (a)	Current Application No. A/YL-TYST/955 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Construction Material with Ancillary Site Office for a Period of 3 Years		---
Site Area	916m ² (about)	300m ² (about)	-616m ² (about) (-67.2%)
Total Floor Area (Non-domestic)	226m ² (about)	82m ² (about)	-144m ² (about) (-63.7%)
No. and Height of Structures	1 • For storage of construction material, ancillary site office, toilet and meter room (4.5m, 1 storey)	2 • One for ancillary site office (7m, 2 storeys) • One for toilet (3m, 1 storey)	+1
Parking Space	1 (5m x 2.5m) (for private car/ light goods vehicle (LGV))	---	-1
Loading/ Unloading Bay	---	1 (7m x 3.5m) (for LGV)	+1
Operation Hours	8:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m. from Mondays to Saturdays with no operation on Sundays and Public Holidays	Shortened operation hours

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

- (a) Application Form received on 27.2.2019 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**

- (c) Further Information received on 27.3.2019 clarifying the average traffic generation and attraction rate and stating that the proposed development would not cause unacceptable traffic impact to the nearby road network *[accepted and exempted from publication and recounting requirements]* **(Appendix Ib)**

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 at **Appendix Ia** and the Further Information at **Appendix Ib**. They can be summarised as follows:

- (a) According 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 and is considered suitable for open storage uses. Preliminary technical assessment on traffic aspect has been provided to demonstrate that the development would not generate significant amount of traffic. The development should have fulfilled the guidelines to a large extent.
- (b) The proposed development conforms to the planning intention of the “U” zone. Taking into consideration the shortage of land for open storage purpose in Tong Yan San Tsuen, sympathetic consideration of the application is sought.
- (c) A number of open storage yards have been approved by the Board in the vicinity (e.g. applications No. A/YL-TYST/781, 790, 836 and 865). The proposed development is compatible with the surrounding environment which mainly consists of open storage yards. Similar treatment should be given to the current application. The applicant will apply for a Short Term Waiver should the application be approved by the Board.
- (d) The development will not cause adverse environmental, drainage, landscape or traffic impacts. Environmental mitigation measures including the restriction of operation hours and exclusion of environmentally sensitive activities such as workshop activity within the Site have been proposed.

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 “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) are relevant to the application. The Site falls within Category 1 areas under TPB PG-No. 13E promulgated by the Board on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Application**

6.1 The Site was the subject of a previous application (No. A/YL-TYST/697) on a larger site for the same applied use as the current application. This application was approved with conditions by the Committee of the Board on 17.10.2014 for a period of 3 years mainly on the consideration that the development was not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant government departments could be addressed by imposing approval conditions. All the approval conditions have been complied with and the planning permission has since lapsed on 18.10.2017. Details of the application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**.

6.2 Compared with the last application, the current application is submitted by the same applicant for the same use with a modification in site layout and a large reduction in site area and total floor area.

7. **Similar Applications**

7.1 A total of 51 similar applications for various types of temporary open storage uses with or without warehouse and/or ancillary workshop/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 IV** and the locations of the sites are shown on **Plan A-1**.

7.2 Out of the 51 similar applications, 50 of which were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant government departments could be addressed by imposing approval conditions. However, amongst these approved applications, 18 were subsequently revoked due to non-compliance with approval conditions.

7.3 The remaining similar application (No. A/YL-TYST/472) was rejected by the Committee on 7.5.2010 mainly on the grounds that there were adverse departmental comment and local objection on the proposal, and no relevant technical assessment had been submitted to demonstrate that the development would not generate adverse environmental impact on the surrounding areas; and the proposal was not compatible with the residential structures in the vicinity.

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

8.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Plan A-3**);
- (b) paved and fenced off; and
- (c) occupied for the applied use without a valid planning permission.

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

- (a) comprise mainly warehouses intermixed with open storage yards, various workshops, a logistics centre, a club house for motor cars, storages, some grave yards, scattered residential structures and vacant structures;
- (b) there are existing residential structures in the vicinity of the Site with the nearest one located to its immediate east (**Plan A-2**);
- (c) there are two open storage yards with ancillary workshops and/or office located to the further southeast and further south, as well as a warehouse to the further southeast and a warehouse and open storage yard to the immediate south, which are operating with valid planning permissions under applications No. A/YL-TYST/790, 860, 836 and 945 respectively; and;
- (d) except for the aforementioned operations operating under valid permissions, the other warehouses, open storage/storage yards, workshops, logistics centre and club house for motor cars in the vicinity of the Site are suspected unauthorised development (UD) 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 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.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarised 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 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 from Kung Um Road via government land (GL) and private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within 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 structures to be erected or regularise any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 as 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

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

- (a) He has no adverse comment on the application and further information (**Appendix Ib**) from traffic engineering point of view.
- (b) The operation hours of the proposed development should be restricted from 9:00 a.m. to 5:00 p.m. to avoid additional traffic loading to Kung Um Road during AM and PM peak periods.
- (c) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the Site.
- (d) The land status of the access road/path/track leading to the Site from Kung Um Road should be checked with the lands authority.
- (e) The management and maintenance responsibilities of the access road/path/track should be clarified with the relevant management and maintenance authorities accordingly.
- (f) 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) There has been no environmental complaint concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances.

Drainage

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

- (a) He has no objection in principle to the proposed development.
- (b) Based on the drainage proposal enclosed in the application (**Drawing A-3**), the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TYST/697.
- (c) 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 implemented under application No. A/YL-TYST/697 and the submission of a condition 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 FSI to be installed should be clearly marked on the layout plans; and

- (iii) The good practice guidelines for open storage attached in **Appendix V** should be adhered to.
- (c) Moreover, having considered the nature of the open storage, an approval condition requiring the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to his satisfaction should be stipulated. To address this approval condition, the applicant is required to submit a valid fire certificate (FS 251) to his department for approval.
- (d) 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) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorised building works (UBW). An Authorised Person 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 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 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) Regulation (B(P)R) 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 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) Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation". According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within an area zoned

as “Other Specified Uses” (“OU”) annotated “Hillside River Corridor with Scenic Cycle Track”.

- (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.

10.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, the Site falls within the boundary of the proposed YLS Development - Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and its detailed implementation programme with phasing and packaging of works for YLS Development is being formulated.

District Officer’s Comments

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

His office has not received any comment from the village representatives in the vicinity.

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 8.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.3.2019, no public comment was received.

12. Planning Considerations and Assessments

12.1 The subject application is for temporary open storage of construction material with ancillary site office for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone 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. While the Site falls within an area zoned

“OU” annotated “Hillside River Corridor with Scenic Cycle Track” 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 jeopardise the long-term development of the area.

12.2 The surrounding areas comprise mainly warehouses intermixed with some open storage/storage yards, various workshops, a logistics centre, a club house for motor cars, some grave yards, scattered residential structures and vacant structures (**Plan A-2**). The development is considered not incompatible with the surrounding uses.

12.3 According to TPB PG-No. 13E, the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. 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.

The application is generally in line with TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; and the technical concerns of relevant government departments could be addressed through the implementation of approval conditions.

12.4 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 13.2 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 UD 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 in order to minimise any potential environmental impact, and to keep the Site clean and tidy at all times.

12.5 Given that one previous planning approval (No. A/YL-TYST/697) for the same applied use has been granted to the Site and 50 similar applications have been approved in this part of the “U” zone, approval of the current application is in line with the Committee’s previous decisions. There was one similar application in this part of the “U” zone rejected mainly on the grounds that there were adverse departmental comment and local objection on the proposal, and no relevant technical assessment had been submitted to demonstrate that the development would not generate adverse environmental impact on the surrounding areas; and the proposal was not compatible with the residential structures in the vicinity. However, such considerations are not applicable to the current application.

12.6 There is no public comment received on the application during 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 open storage of construction material with ancillary site 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 period of 3 years until 12.4.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 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 storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or any other types of electronic waste, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no dismantling, cleaning, repairing or workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) 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;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the provision of boundary fencing on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.10.2019;
- (h) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (i) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.7.2019;
- (k) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.5.2019;

- (l) 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 12.10.2019;
- (m) in relation to (l) 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 12.1.2020;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (h) or (i) 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
- (o) if any of the above planning conditions (g), (j), (k), (l) or (m) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 27.2.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information received on 27.3.2019 clarifying the average traffic generation and attraction rate and stating that the proposed development would not cause unacceptable traffic impact to the nearby road network
Appendix II	Relevant extract of the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous Application covering the Site
Appendix IV	Similar applications in this part of the “U” zone on the OZP

	since the promulgation of TPB PG-No. 13E
Appendix V	The Good Practice Guidelines for Open Storage Sites
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Site Plan showing vehicular access leading to the Site
Drawing A-2	Site Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Proposal
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 to A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2019**