

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/981

<u>Applicant</u>	: Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 2813 (Part) and 2814 (Part) in D.D.120 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 306m ² (about) (including about 1m ² of GL)
<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 Warehouse for Storage of Construction Machinery and 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 warehouse for storage of construction machinery and 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 by the applied use without valid planning permission (**Plans A-2, A-3, A-4a and A-4b**).
- 1.2 The Site was involved in 2 previous applications (No. A/YL-TYST/644 and 807) (**Plan A-1**) for the same use as the current application. The last application (No. A/YL-TYST/807) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 14.9.2016. All the approval conditions under the last application had been complied with and the planning permission had lapsed on 15.9.2019. Details of the previous applications are summarised at paragraph 5 and **Appendix II**. Compared with the last application, the current application is submitted by the

same applicant for the same use with the same development parameters and site layout on the same site.

- 1.3 According to the applicant, the warehouse is for storage of construction machinery (including handy tools, electric generator, barricades and road signs) and construction material (including metal, tiles, sanitary ware and bricks). No open storage, repairing, cleaning, dismantling and other workshop activities will be carried out at the Site. No medium/heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, will be allowed to enter the Site. The applicant undertakes to maintain/preserve all existing drainage facilities/trees within the Site at his own expense. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application remain unchanged from the last application (No. A/YL-TYST/807) and they are summarised as follows:

Major Development Parameters	Previous Approved Application No. A/YL-TYST/807	Current Application No. A/YL-TYST/981
Applied Use	Temporary Warehouse for Storage of Construction Machinery and Construction Material with Ancillary Site Office for a Period of 3 Years	
Site Area	About 306 m ² (including GL of about 1m ²)	
Total Floor Area (Non-domestic)	About 198m ²	
No. and Height of Structures	2 <ul style="list-style-type: none"> • one warehouse with site office (7m, 2 storeys) • one toilet (3m, 1 storey) 	
No. of Parking Space	Nil	
No. of Loading/Unloading Space	1 (7m x 3.5m) (for light goods vehicles)	
Operation Hours	7:00 a.m. to 7:00 p.m. Mondays to Saturdays, with no operation on Sundays and public holidays	

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

- (a) Application Form received on 21.8.2019 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 28.8.2019 providing a fire service installations (FSIs) proposal with a fire certificate in support of the application **(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 and the Supplementary Information at **Appendices Ia** and **Ib** respectively. They can be summarised as follows:

- (a) The Site is the subject of previous applications. All the planning conditions under the last application (No. A/YL-TYST/807) have been complied with.
- (b) 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 and port back-up uses. The proposed development would not generate queuing of traffic outside the Site.
- (c) The proposed development is in line with the planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental, visual and drainage impacts arising from the proposal. The applicant undertakes to follow the environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice), where applicable.

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 currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site was the subject of 2 previous applications (Nos. A/YL-TYST/644 and 807) for the same use as the current application covering different extents of the Site. Details of the application are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Application No. A/YL-TYST/644 was approved with conditions for a period of 3 years by the Committee on 6.9.2013, mainly on the considerations that the development was generally not incompatible with the surrounding areas; approval of the application on a temporary basis would not frustrate the long-term

development of the area; and departmental concerns could be addressed by imposing approval conditions.

- 5.3 The last application (No. A/YL-TYST/807) was approved with conditions for a period of 3 years by the Committee on 14.9.2016 on similar consideration as those stated above. All the approval conditions had been complied with and the planning permission had lapsed on 15.9.2016.
- 5.4 Compared with the last application, the current application is submitted by the same applicant for the same warehouse use with the same development parameters and site layout on the same site.

6. Similar Applications

- 6.1 A total of 46 similar applications for various temporary warehouse/storage with or 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 III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 All 46 applications were approved mainly on similar considerations that they were generally in line with TPB PG-No.13E (for cases involving open storage use); the developments were not incompatible with the surrounding open storage/warehouse uses; and departmental concerns could be addressed by imposing relevant approval conditions. However, amongst these approved applications, 13 were revoked due to non-compliance with approval conditions.
- 6.3 For Member’s information, application No. A/YL-TYST/982 for temporary warehouse for storage of construction material with ancillary site office and application No. A/YL-TYST/983 for temporary warehouse for storage of electronic goods with ancillary site office, both within the same “U” zone on the OZP, will also be considered at this meeting (**Plan A-1**).

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

- 7.1 The Site is:
 - (a) accessible via a local track leading from Kung Um Road to its northwest (**Drawing A-1** and **Plan A-3**);
 - (b) paved and fenced off; and
 - (c) currently occupied by the applied use without valid planning permission.
- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):
 - (a) predominantly warehouses, open storage/storage yards and residential structures, intermixed with vehicle repair workshops, logistics centres, parking of vehicles, sewage pumping station, property agency, ruins, shrubland, agricultural land, unused land and vacant land/structures;

- (b) a row of village houses of Tin Lung Tsuen is located about 10m to its west across a local track/road (**Plan A-2**). Some residential structures are located to its further south on land zoned “Village Type Development” on the OZP;
- (c) to the northeast, southwest, north and northwest of the Site are vehicle repair workshop, open storage yards and a warehouse operating with valid planning permissions under Applications No. A/YL-TYST/85, 848, 877, 963, 880 and 841 respectively; and
- (d) except for the aforementioned operations operating with valid planning permissions, the other warehouses, open storage/storage yards, parking of vehicles, logistics centres, vehicle repair workshops and property agency in the vicinity are suspected unauthorised developments (UD) 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 GL and 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 portion of GL (about 1m²) included in the Site is covered by Short Term Tenancy (STT) No. 2792 for the purpose of ‘temporary warehouse for storage of construction machinery and construction materials with ancillary site office’.
- (c) Within the Site, Lots 2813 and 2814 in D.D. 120 are covered by Short Term Waivers (STWs) No. 3949 and 3950 respectively to permit structures erected thereon for the purpose of ‘temporary warehouse for storage of construction machinery and construction materials with ancillary site office’. A portion of Lot 2813 and a portion of Lot 2814 outside the Site are also covered by STWs No. 4231 and 4322 respectively to permit erection of

structures for the purpose of 'temporary open storage of construction material and metal ware'.

- (d) The Site is accessible from Kung Um Road via GL. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. 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 of 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

9.1.2 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.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) 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 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 to minimise any potential environmental nuisances to the surroundings.

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.
- (b) Based on the drainage proposal/planning statement enclosed in the application (**Drawings A-4** and **A-5**), the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/807.
- (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/807 and submission of condition 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

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 FSIs being provided to his satisfaction.
- (b) The FSIs proposal submitted by the applicant (**Appendix Ib**) is considered acceptable to his department. The applicant is advised that the installation/maintenance/modification/repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire 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):

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) 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.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with 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.

Others

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

- (a) The 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 mainly falls within an area zoned as “District Open Space” (“DO”) and partly within an area shown as ‘Road’.

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

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

- (a) He has no objection to the application for temporary use for three years, on the understanding that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted and an advisory clause that “the Site might be subject to land resumption for the implementation of the YLS development which might take place at any time before the expiry of the temporary planning permission” is incorporated to remind the applicant that the land might be resumed at any time during the planning approval period.
- (b) The Site falls within the boundary of YLS development (the project). To meet the target first population intake under the project by Q3 of 2028, land clearance is planned to commence in Q1 of 2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by mid 2021 and Q4 of 2021 respectively. His department will give sufficient notice to relevant department(s) for early termination of the Site if the works commence early.

District Officer’s Comments

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on 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).

10. Public Comment Received During the Statutory Publication Period

On 30.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.9.2019, no public comment was received from members of the public.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary warehouse for storage of construction machinery and 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 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 mainly within an area zoned “DO” and partly within an area shown as ‘Road’ on the RODP of YLS promulgated on 8.8.2017, CE/CID, 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.
- 11.2 The surrounding areas comprise predominantly warehouses, open storage/storage yards and residential structures, intermixed with vehicle repair workshops, logistics centres and parking of vehicles, etc. (**Plan A-2**). Although there are residential structures nearby, the proposal is generally 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 including C for T, CE/MN, DSD and DEP. 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 below 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 latest Code of Practice to minimise any potential environmental impact on the surrounding area.
- 11.4 Given that two previous approvals for the same use have been granted to the Site and 46 similar applications have been approved in this part of the “U” zone since the promulgation of TPB PG-No. 13E, approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There is no public comment received on the application during statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary warehouse for storage of construction machinery and

construction material with ancillary site office 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 18.10.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 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 on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no open storage, repairing, cleaning, dismantling or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/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 boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 18.1.2020;
- (j) the implementation of the accepted 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 18.4.2020;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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
- (l) if any of the above planning conditions (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.

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 21.8.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 28.8.2019 providing a FSIs proposal with a fire certificate in support of the application
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications in this Part of the “U” Zone on the OZP since the Promulgation of TPB PG-No. 13E
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape & Tree Preservation Proposal
Drawings A-4 and A-5	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
OCTOBER 2019**