

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/989

- Applicant** : Mr. WONG Ping Ngong
- Site** : Lot 653 in D.D. 121, Long Hon Road, Yuen Long, New Territories
- Site Area** : 980 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
- Zoning** : “Residential (Group D)” (“R(D)”) (about 99.1%)
[Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]

“Green Belt” (“GB”) (about 0.9%)
- Application** : Temporary Open Storage of Construction Machinery and 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 temporary open storage of construction machinery and construction materials for a period of 3 years (**Plan A-1**). Although the proposed use is neither a Column 1 nor 2 use in the “R(D)” zone, the Covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the Site is for storage of construction machinery (including tower crane components) and construction materials (including scaffolding materials). No workshop activities will be carried out within the Site. Plan showing the site layout submitted by the applicant is at **Drawing A-1**.

1.3 The major development parameters of the application are summarised as follows:

Site Area	About 980 m ²
Total Floor Area (Non-domestic)	15 m ²
No. and Height of Structures	1 <ul style="list-style-type: none"> • one structure for power supply switch room (3m, 1 storey)
No. of Parking Spaces	1 (for private cars)
No. of Loading/ Unloading Spaces	2 (one each for medium and heavy goods vehicles)
Operation Hours	8:00 a.m. to 6:00 p.m. Mondays to Saturdays, and occasionally on Sundays and Public Holidays

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

- (a) Application Form received on 17.9.2019 (Appendix I)
- (b) Supplementary Information dated 19.9.2019 clarifying the zonings of the Site with submission of a replacement page of the Application Form (Appendix Ia)
- (c) Supplementary Information dated 19.9.2019 providing a replacement page of the Application Form (Appendix Ib)
- (d) Further Information (FI) dated 16.10.2019 providing traffic generation data and clarifications on the proposed operation and stored items *[accepted and exempted from publication and recounting requirements]* (Appendix Ic)
- (e) FI dated 29.10.2019 providing a revised layout plan and clarification on the proposed operation *[accepted and exempted from publication and recounting requirements]* (Appendix Id)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I** and the FI at **Appendices Ic** and **Id** respectively. They can be summarised as follows:

- (a) Basic infrastructures (e.g. stormwater and foul sewer system) in the area are insufficient for residential developments.
- (b) The demand for open storage is increasing but the supply is insufficient. The Site should be utilised to create employment opportunities, which could also generate land revenue for the government.

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

The applicant is the sole “current land owner”. 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 mainly falls within Category 3 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

There is no previous planning application covering the Site.

7. Similar Applications

There are six similar applications (No. A/YL-TYST/462, 536, 576, 585, 670 and 985) for various types of temporary open storage uses with or without warehouse/recycling activities and/or ancillary site office/caretaker’s room since the promulgation of TPB PG-No. 13E on 17.10.2008. All six applications were rejected by the Board on review or by the Rural and New Town Planning Committee (the Committee) of the Board on 6.11.2009, 8.7.2011, 13.7.2012, 31.8.2012, 10.10.2014 and 1.11.2019 respectively, mainly on the grounds that the development was not in line with the TPB PG-No.13E and the planning intention of the “R(D)” zone (and “GB” zone for application No. A/YL-TYST/985); the development was incompatible with the surrounding uses; there was insufficient information to demonstrate that the development would not generate adverse environmental/traffic/landscape impacts on the surrounding areas; and approval of the application would set an undesirable precedent. The latest similar application No. A/YL-TYST/985 was submitted by the same applicant as the current application. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible via a local track leading from Long Hon Road to its northeast (**Plans A-2 and A-3a**);
- (b) paved and fenced-off; and
- (c) occupied by the applied use without valid planning permission.

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

- (a) rural in character with predominantly open storage/storage yards with scattered residential structures, warehouse, parking of trailers, shrubland, agricultural land and vacant structures/land to the northern side of the local track in the subject “R(D)” zone;
- (b) mainly shrubland with graves to the southern side of the local track in the subject “GB” zone;
- (c) there are residential structures in the vicinity of the Site with the nearest one located about 50m to the north of the Site (**Plan A-2**); and
- (d) except for an open storage yard to the further northeast of the Site, the other open storage/storage yards, warehouse and parking of trailers in the vicinity of the Site (all within the subject “R(D)” zone) are suspected unauthorised development (UD) subject to enforcement action taken by the Planning Authority (**Plan A-2**).

9. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application and public comments, where relevant, 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 Long Hon Road via Government Land (GL). Her office does not provide maintenance work for 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 the 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 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 Long Hon 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) 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 Tong Yan San Tsuen Road.

Environment

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

- (a) DEP does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one situated about 50m to the north of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.
- (c) With respect to the public concerns (**Appendix V-2**) on the water pollution from the development, he notes that the Site is currently occupied by the applied use. 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) and the Professional Persons Environmental Consultative Committee Practice Note No. 5/93 (ProPECC PN 5/93) – “Drainage Plans Subject to Comment by the Environmental Protection Department” issued by the Environmental Protection Department to minimise any potential environmental nuisance.

Landscape

- 10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has no objection to the application from landscape planning perspective.
 - (b) The Site is surrounded by open storage yards and natural woodland is found to its south. Also, it is in an area of miscellaneous rural fringe landscapes. With reference to the aerial photos of 2015 and 2018 (**Plans A-3b** and **A-3a**), the Site is mostly hard-paved, occupied by some temporary structures, and without major existing vegetation within its boundary including the small strip of area within the “GB” zone. Significant landscape impact arising from the proposed use on the area is not anticipated.
 - (c) Since the Site is surrounded by other temporary open storage sites and there is no major public frontage along the boundary, should the application be approved, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Nature Conservation

- 10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) She has no strong view on the application from nature conservation point of view noting that the Site is paved and only a minor portion of the Site (about 0.9%) falls within the “GB” zone.
 - (b) Nevertheless, should the application be approved, the applicant should be advised to adopt good site practices and appropriate measures to avoid causing disturbance or pollution to the subject “GB” zone.

Drainage

- 10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no objection in principle to the development from the public drainage point of view.
 - (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the

submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

10.1.8 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.
 - (iii) The good practice guidelines for open storage attached in **Appendix IV** 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 should be incorporated if the application is approved. To address this approval condition, the applicant is required to submit a valid fire certificate (FS 251) to his department for approval.
- (d) 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

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

- (a) As there is no record of approval granted 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) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

10.1.10 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 falls within an area zoned as "Residential - Zone 5" ("R5").
- (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.

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

- (a) He has no objection to the subject application.

- (b) However, the Site falls within the project boundary of the proposed YLS Development – Stage 4. 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

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

His office has not received any feedback from the locals.

10.2 The following government departments have no comment to the application:

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

11. Public Comments Received During the Statutory Publication Period

On 24.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.10.2019, two objecting public comments were received from a member of the general public (**Appendix V-1**) and an alleged local representative of Tong Yan San Tsuen (**Appendix V-2**) raising concerns on the application mainly on the grounds that the applied use is suspected to be a “Destroy First, Build Later” case; and the development will generate adverse environmental and sewerage impacts on the surrounding areas and environmental assessment should therefore be required.

12. Planning Considerations and Assessments

- 12.1 The subject application is for temporary open storage of construction machinery and construction materials for a period of 3 years at a site almost entirely zoned “R(D)” (about 99.1%) and marginally zoned “GB” (about 0.9%) on the OZP. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. The applied use is not in line with the planning intention of the “R(D)” zone. No strong planning justifications have been provided in the submission for a departure from the planning intention, even on a temporary basis.
- 12.2 The surrounding area is predominantly rural in character with shrubland and open storage/storage yards scattered with residential structures, agricultural land and vacant structures/land, etc. to either sides of a local track (**Plan A-2 and A-3a**). Although there are open storage/storage yards, warehouse and parking of trailers in the vicinity, most of them are suspected UD subject to enforcement action being taken by the Planning Authority. The applied use is considered not compatible with the rural character of the area, particularly the shrubland to its south within the subject “GB” zone.

- 12.3 According to TPB PG-No. 13E, the Site mainly falls within Category 3 areas. The following guidelines are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

The application is not in line with TPB PG-No. 13E in that the Site mainly falls within Category 3 areas where the Site was not involved in any previous approvals for open storage use; there are adverse comments from DEP on environmental aspect; there is local objection on the application (**Appendix V-2**); and no assessments have been submitted to demonstrate that the proposal would not generate adverse environmental impacts on the surrounding area.

- 12.4 There are six similar applications for open storage uses with or without warehouse/recycling activities and/or ancillary site office/caretaker's room within the same "R(D)" zone, which were all rejected by the Committee/the Board on review mainly on the considerations that the proposal was not in line with TPB PG-No. 13E and the planning intention of the "R(D)" zone; the development was incompatible with the surrounding uses; and there was insufficient information to demonstrate that the development would not generate adverse environmental/traffic/landscape impacts on the surrounding areas, etc. Approval of the current application would set an undesirable precedent and attract similar applications within the area. The cumulative impact would result in a general degradation of the rural environment of the area. Overall, rejecting the current application would be in line with the Committee/the Board's previous decisions.
- 12.5 There were two objecting public comments received on the application during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the development is not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there are

adverse departmental comments on environmental aspect; and there is local objection on the application; and

- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13.2 Alternatively, 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 15.11.2022. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no workshop activities are allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) 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 15.5.2020;
- (e) the submission of a 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 15.5.2020;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.8.2020;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the provision of fire extinguisher(s) with 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 27.12.2019;
- (i) 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 15.5.2020;
- (j) in relation to (i) 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 15.8.2020;

- (k) if any of the above planning conditions (a), (b), (c) 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; and
- (l) if any of the above planning conditions (d), (e), (f), (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.

Advisory clauses

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

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

15. Attachments

Appendix I	Application Form with plan received on 17.9.2019
Appendix Ia	Supplementary Information dated 19.9.2019 clarifying the zonings of the Site with submission of a replacement page of the Application Form
Appendix Ib	Supplementary Information dated 19.9.2019 providing a replacement page of the Application Form
Appendix Ic	FI dated 16.10.2019 providing traffic generation data and clarifications on the proposed operation and stored items
Appendix Id	FI dated 29.10.2019 providing a revised layout plan and clarification on the proposed operation
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	Similar applications in the “R(D)” zone on the OZP since the promulgation of TPB PG-No. 13E
Appendix IV	The Good Practice Guidelines for Open Storage Sites
Appendices V-1 to V-2	Public comments received during the statutory publication period
Appendix VI	Recommended Advisory Clauses

Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plans A-3a to A-3b	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**