

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1021

<u>Applicant</u>	: Bonus Investment Limited represented by Derby Engineering Company
<u>Site</u>	: Various Lots in D.D. 107 and Adjoining Government Land, San Tam Road, Kam Tin, Yuen Long
<u>Site Area</u>	: about 5,570.4m ² (including Government land (GL) of 1,672m ² (about 30%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Other Specified Uses” annotated “Railway Reserve” (“OU(Railway Reserve)”)
<u>Application</u>	: Temporary Open Storage for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage for a period of three years at the application site (the Site), which falls within an area zoned “OU(Railway Reserve)” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced, erected with temporary structures and used for the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from San Tam Road via a local track (**Plans A-1 to A-3**). According to the applicant, the applied use includes an open area for storage of construction materials, and three structures of one to two storeys on the periphery of the Site with a total floor area of about 1,702.8m² and building heights of not more than 17m for ancillary office, workers’ resting area, covered carpark, display of metal scaffold and storage (**Drawing A-1**). Three covered parking spaces for private car and three open-air loading/unloading spaces for heavy goods vehicle are provided within the Site. Aluminium sheet fencing of 2.5m to 3m high is erected along the site boundary. No workshop related activities will be conducted and no hoist or crane will be operated or built at the Site. The operation hours are

between 8 a.m. and 6 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of four previous applications for temporary open storage (as detailed in paragraph 6 below). The last application No. A/YL-KTN/825 for the same applied use on the same site with the same development parameters submitted by the same applicant as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in September 2022, but the planning permission was subsequently revoked in March 2024 due to non-compliance with the approval conditions.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and with attachments received on 5.6.2024 and 7.6.2024 **(Appendix I)**
 - (b) Further information (FI) received on 22.7.2024* **(Appendix Ia)**
 - (c) FI received on 23.7.2024* **(Appendix Ib)**
 - (d) FI received on 23.9.2024* **(Appendix Ic)**
- * accepted and exempted from publication and recounting requirements*
- 1.5 On 2.8.2024, the Committee agreed to defer making a decision on the application for two months as required by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The applicant intends to continue to use the Site as temporary open storage as approved under the previous application No. A/YL-KTN/825. Although the previous planning permission was revoked due to non-compliance with the approval conditions related to submission and implementation of fire service installations (FSIs) proposal, the applicant had put efforts in meeting the technical requirements as required by the Fire Services Department. Besides, there is no change to the drainage system including the periphery channels, catch pits and sump pits, which has been installed in accordance with the approved drainage proposal under the previous application No. A/YL-KTN/825. In support of the current application, the applicant has submitted a FSIs proposal and records of the existing drainage facilities on the Site.
- (b) The applicant undertakes to adopt the relevant mitigation measures as stated in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, and continue to maintain the existing trees at the Site in good condition. The applied use will not encroach onto the watercourse at the northwest of the Site.

- (c) The applicant commits to terminate the operation and vacate the Site for the Northern Link (NOL) railway development upon government acquisition/resumption and will communicate with the relevant authorities to resolve any interfacing issue.

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

The applicant is not a ‘current land owner’ of the private land portion of the Site 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. 31B) by publishing a notice on the specified local newspapers and posting site notice. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the ‘Owner’s Consent/Notification’ Requirements are not applicable.

4. Background

The Site is not subject to any active enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G, and the relevant extracts of which are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of four previous applications (No. A/YL-KTN/425, 586, 673 and 825) for temporary open storage submitted by the same applicant as the current application. All these applications were approved with conditions by the Committee between December 2013 and September 2022 mainly on the considerations that temporary approval would not jeopardise the long-term planning intention; the proposed/applied use was not incompatible with the surrounding land uses and was generally in line with the relevant Town Planning Board Guidelines for application for open storage and port back-up uses; and the relevant government departments consulted generally had no adverse comment or their concerns could be addressed by approval conditions. The planning permission under the last application (No. A/YL-KTN/825) was revoked in March 2024 due to non-compliance with approval conditions related to submission and implementation of FSIs proposal.

- 6.2 Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are four similar applications (No. A/YL-KTN/632, 653, 841 and 848), involving two sites, for temporary open storage within the same “OU(Railway Reserve)” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between May 2019 and August 2022 on the similar considerations as stated in paragraph 6.1 above. The planning permissions under applications No. A/YL-KTN/632, 653 and 841 were revoked between October 2021 and January 2024 due to non-compliance with approval conditions.
- 7.2 Details of the similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) currently paved, fenced, erected with temporary structures and used for the applied use without valid planning permission; and
 - (b) accessible from San Tam Road via a local track.
- 8.2 The surrounding areas are rural in character with an intermix of open storage yards, warehouses (including the site with valid planning permission under application No. A/YL-KTN/949 for temporary storage), vehicle service workshops, vacant land and residential structures (the nearest is about 5m to the east of the Site). A nullah is located to the northwest of the Site. To the further west of the Site are San Tam Road and San Tin Highway.

9. Planning Intention

The planning intention of the “OU(Railway Reserve)” zone is primarily for railway development. According to the Explanatory Statement, the area covers the proposed NOL alignment.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

10.2 The following government department does not support the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as it involves the use of heavy vehicles and there are sensitive uses (i.e. residential structures) in vicinity of the Site, thus environmental nuisance is expected;
- (b) no environmental complaint was received concerning the Site in the past three years; and
- (c) his advisory comments are at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 14.6.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concern on the compliance status of approval conditions under the previous application (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage for a period of three years at the Site zoned “OU(Railway Reserve)” (**Plan A-1**). The planning intention of the “OU(Railway Reserve)” zone is primarily for railway development. Whilst the applied use is not in line with the planning intention of “OU(Railway Reserve)” zone, the applicant commits to terminate and vacate the Site and will communicate with the relevant authorities to resolve any interfacing issue upon government acquisition/resumption for railway development. The Chief Engineer/Railway Development 1-1, Railway Development Office of Highways Department and Chief Estate Surveyor/Railway Development of Lands Department have no adverse comment on the application. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “OU(Railway Reserve)” zone. Should the application be approved, the applicant will be advised that the applied use should be terminated and the Site should be vacated upon the implementation of railway project at any time during the planning approval period.
- 12.2 The applied use is considered not incompatible with the surrounding areas which are rural in character with an intermix of open storage yards, warehouses, vehicle service workshops, vacant land and residential structures. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that no significant landscape impact arising from the applied use is anticipated and has no objection to the application from landscape planning perspective.

12.3 DEP does not support the application as the applied use involves the use of heavy vehicles and environmental nuisance to the nearby sensitive receivers (i.e. residential structures) is expected. In this regard, the applicant will be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise possible environmental nuisances generated by the applied use. Besides, there was no environmental complaint concerning the Site received by DEP in the past three years and the operation of the applied use is also subject to the relevant pollution control ordinances.

12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.5 The application is considered generally in line with TPB PG-No. 13G in that relevant government departments consulted including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. DEP’s concerns can be addressed as mentioned in paragraph 12.3 above. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below.

12.6 The Site is involved in four previously approved applications for temporary open storage submitted by the same applicant as the current application. Whilst the planning permission under the last application No. A/YL-KTN/825 for the same applied use was revoked due to non-compliance with the approval conditions related to submission and implementation of FSIs proposal, the applicant has submitted FSIs proposal for the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application. Besides, there are four approved similar applications in the vicinity of the Site as detailed in paragraph 7.1 above. Approving the current application is in line with the Committee’s previous decisions.

12.7 Regarding the public comment as stated in paragraph 11 above, the departmental comments and planning assessments above are relevant.

13. Planning Department’s Views

13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, PlanD considers that the applied

use could be tolerated for a period of three 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 three years until 22.11.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of an updated 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 22.2.2025;
- (b) in relation to (a) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) the provision of fire extinguisher(s) with a valid fire certificate 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 3.1.2025;
- (d) the submission of a revised 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 22.5.2025;
- (e) in relation to (d) 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 22.8.2025;
- (f) if the above planning condition (b) 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
- (g) if any of the above planning condition (a), (c), (d) or (e) 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 attached at **Appendix V**.

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

the applied use is not in line with the planning intention of the "OU(Railway Reserve)" zone which is primarily for railway development. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 with supplementary information received on 5.6.2024 and 7.6.2024
Appendix Ia	FI received on 22.7.2024
Appendix Ib	FI received on 23.7.2024
Appendix Ic	FI received on 23.9.2024
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Previous and Similar applications
Appendix IV	Government department's general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Appendix VII	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2024**