

RNTPC Paper No. A/YL-KTN/848  
For Consideration by the Rural and  
New Town Planning Committee  
on 26.8.2022

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/848**

<b><u>Applicant</u></b>	: Lotti Construction Materials Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 431 (Part), 432 (Part), 433 S.B (Part) and 1739 RP (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 1,944m <sup>2</sup> (including Government land of about 520m <sup>2</sup> )
<b><u>Land Status</u></b>	: (i) Block Government Lease (demised for agricultural use) (about 88.7%) (ii) Government Land (about 11.3%)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Other Specified Uses” (“OU”) annotated “Railway Reserve”
<b><u>Application</u></b>	: Temporary Open Storage of Construction Machinery, Construction Materials and Ancillary Parking of Medium/Heavy Goods Vehicles and Container Trailers/Tractors 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, construction materials and ancillary parking of medium/heavy goods vehicles and container trailers/tractors for a period of three years. The Site falls within an area zoned “OU(Railway Reserve)” on the Kam Tin North OZP. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently paved, fenced off and currently used for the applied use without planning permission (**Plans A-2 and A-4**).

- 1.2 The Site is involved in ten previous applications (details in paragraph 6 below). The current application submitted by the same applicant is the same as the last approved application No. A/YL-KTN/632 in terms of the applied use, site area / boundary, site layout and major development parameters. The planning permission of the last application was revoked on 20.2.2022 due to non-compliance of approval conditions on implementation of the drainage proposal, run-in/out proposal and landscape proposal.
- 1.3 According to the applicant, the Site is occupied by seven 1 to 2-storey structures with building height ranging from about 3.5m to 7.5m and a total floor area of about 824m<sup>2</sup> for storage of construction materials under open sheds (654m<sup>2</sup>), site office (130m<sup>2</sup>), electricity meter room (20m<sup>2</sup>) and toilet (20m<sup>2</sup>). The applicant states that packed cement is stored at the Site. No repairing, cleansing, dismantling or workshop activities will be carried out within the Site. A total of 5 parking spaces for medium/ heavy goods vehicle, private car/ light goods vehicle and container tractor/ trailer as well as a loading/ unloading space for container tractor/ trailer are provided within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. on Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible via a local track branching off from San Tam Road. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (**Appendix I**) received on 30.6.2022
  - (b) Further Information (FI) received on 18.8.2022 (**Appendix Ia**)
  - (c) FI received on 23.8.2022 (**Appendix Ib**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The alignment of the proposed Northern Link (NOL) is yet to be finalized. Given that the development is temporary in nature, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “OU(Railway Reserve)” zone for railway development.

- (b) The Site is adjoined by some open storage yards, plant nursery and rural workshops. The development is considered compatible with the surrounding land uses.
- (c) The Site falls within Category 2 areas under the TPB PG-No. 13F for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance'. Previous approvals for similar / same temporary open storage uses on the Site have been given and the application is in conformity with the relevant set of TPB Guidelines.
- (d) The development would not induce adverse traffic, environmental, drainage and landscape impacts to the surrounding areas.
- (e) Whilst the previous application was revoked in February 2022, the applicant states that the relevant approval conditions have been implemented already.

### **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 site notice and sending notice to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent / Notification” requirements are not applicable.

### **4. Town Planning Board Guideline**

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 2 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

### **5. Background**

The Site is currently not subject to any planning enforcement action.

## 6. Previous Applications

- 6.1 The Site, in part or in whole, is the subject of ten previous applications (No. A/DPA/YL-KTN/33, A/YL-KTN/11, 14<sup>1</sup>, 258, 313, 327, 362, 414, 480 and 632). Application No. A/YL-KTN/11 and 14, which are for car breaking and stripping workshop, and proposed car park, are not relevant to the current application. The other 8 applications for various temporary open storage uses (involving storage of scrap metal and steel, construction machinery, construction materials and cable) were approved with conditions by the Committee or the Board on review between September 1993 and September 2019 mainly on the grounds that the exact alignment and development programme of the NOL had yet to be finalized and temporary approval of the applications would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; the applications were considered generally in line with the relevant TPB Guidelines for application for temporary open storage and port back-up uses; relevant departments, except the Director of Environmental Protection (DEP), had no adverse comment on the applications and the technical concern of DEP could be addressed by appropriate approval conditions. Nevertheless, the planning permissions for seven of them were subsequently revoked owing to non-compliance with approval conditions. The planning permission for the last application No. A/YL-KTN/632 submitted by the same applicant for the same applied use as the current application was revoked in February 2022 due to non-compliance with approval conditions related to the implementation of drainage proposal, run-in/out proposal and landscape proposal.
- 6.2 Compared with the last approved Application No. A/YL-KTN/632, the current application is submitted by the same applicant and is the same in terms of the applied use, site area / boundary, site layout and major development parameters.
- 6.3 Details of these applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1b**.

## 7. Similar Applications

- 7.1 There are 5 similar applications (No. A/YL-KTN/586, 591, 653, 673 and 685) for various temporary open storage uses within the same “OU(Railway Reserve)” zone in the past five years. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 All of these applications were approved with conditions by the Committee between March 2018 and November 2019 on similar considerations as stated in

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<sup>1</sup> Application No. A/DPA/YL-KTN/33 was processed at a time when the site was zoned “Open Storage” on the draft Kam Tin North Development Permission Area Plan whilst applications No. A/YL-KTN/11 and 14 were processed at a time when the respective sites were zoned “Undetermined” on the OZP.

paragraph 6.1 above. However, the planning permission for Application No. A/YL-KTN/653 was revoked due to non-compliance with approval conditions.

## **8. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

### **8.1 The Site is:**

- (a) accessible via a local access branching off from San Tam Road;
- (b) paved and fenced off and currently occupied by the applied use without planning permission.

### **8.2 The surrounding areas have the following characteristics:**

- (a) to its north are open storage/ storage yards (with planning permissions granted under Applications No. A/YL-KTN/685 and 754), a warehouse, a real estate agency and residential structures/ dwellings (the closest about 10m to the north);
- (b) to its east are a warehouse with planning permission under Application No. A/YL-KTN/783. To the further east are logistics centres within an area zoned “Industrial (Group D)”;
- (c) to its south are storage yards, parking of vehicles, a pumping station and vacant land (one of which with valid planning permission under Application No. A/YL-KTN/770 for temporary warehouse), and a site with works in progress (approved for temporary container vehicle park under Application No. A/YL-KTN/750); and
- (d) to its immediate west is an existing channel. San Tam Road and San Tin Highway are located to its further west.

## **9. Planning Intention**

The planning intention of the “OU(Railway Reserve)” zone is primarily for railway development. According to the planning statement, the area covers the proposed NOL alignment, and the exact alignment of the NOL has yet to be finalised.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 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 V and VI** respectively.

- 10.2 The following government departments do not support / have reservation on the application.

Environment

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

- there was no environmental complaint received against the Site in the past three years; and
- in accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” (“COP”), he does not support the application as there are sensitive receivers, i.e. residential dwellings / structures, located in the vicinity (the nearest about 10m to the north) (**Plan A-2**) and environmental nuisance is expected as the development involves the use of heavy vehicles.
- should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “COP” issued by DEP.

Railway Development

10.2.2 Comments of the Chief Estate Surveyor/Railway Development, LandsD\_(CES/RD, LandsD):

- the Site may be affected by the proposed NOL project and the construction of the NOL may commence in 2025. His office has reservation on the application from land acquisition point of view.

**11. Public Comments Received During Statutory Publication Period (Appendix VII)**

The application was published for public inspection. During the statutory publication period, two public comments were received from individuals objecting to the application mainly on the grounds that the development would induce adverse traffic and environmental impacts, increase the risk of fire hazard and affect the safety and living quality of the villagers in the surrounding areas; and the previous application granted for the same use was revoked due to non-compliance of approval conditions.

## 12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction machinery, construction materials and ancillary parking of medium/heavy goods vehicles and container trailers/tractors for a period of 3 years at the “OU (Railway Reserve)” zone. The planning intention of the “OU(Railway Reserve)” zone is primarily for reservation of land for railway development, i.e. the NOL. The applied use is not in line with the planning intention of “OU(Railway Reserve)” zone. While CES/RD of LandsD has some reservation on the application from land acquisition perspective as the Site may be affected by the proposed NOL project of which its construction is tentatively scheduled for commencement in 2025, CE/RD2-2, RDO of HyD has no comment on the application if the applicant strictly follows his commitments to retreat from the Site in the event that the Site is required for railway development and the requirements given in the land acquisition / resumption notice to be served by the Government for vacating the required land timely for railway development. Should the application be approved, an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the NOL implementation is recommended.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are mainly rural in character and intermixed with open storage/storage yards, warehouses, workshops, parking of vehicles, vacant land and sites with construction works in progress. Furthermore, an area zoned “I(D)” on the OZP is located to the east of the Site (**Plans A-1a and A-2**) where storage yards, warehouses and logistics centres could be found.
- 12.3 According to TPB PG-No. 13F, the Site falls within Category 2 areas. The following guidelines are relevant:
- Category 2 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.4 The application is generally in line with the TPB PG-No. 13F in that relevant departments consulted except DEP have no adverse comment on the application and there is no local objection received against the application as conveyed by DO(YL). The applicant has submitted the as-built drainage plan, fire service installations proposal and landscape proposal to support the current application. Previous approvals have been granted by the Committee / the Board on review for similar / same temporary open storage uses at the Site since 2009. The current

application submitted by the same applicant is the same as the last approved application (No. A/YL-KTN/632) in terms of the applied use, site area / boundary, layout and major development parameters. Since approval of the previous application, there has been no major change in the planning circumstances.

- 12.5 While DEP does not support the application as the applied use involves the use of heavy vehicles and there are sensitive receivers, i.e. residential dwellings / structures, in the vicinity of the Site (the closest one is about 10m to the north) (**Plan A-2**), no environmental complaint on the Site was received in the past 3 years. Also, the Site is accessible to San Tam Road with a short stretch of local track without the need to pass through the residential dwellings/structures nearby. To minimize the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to adopt the latest “COP” issued by the DEP to minimize the possible environmental impacts on the adjacent areas.
- 12.6 The Site is involved in ten previous applications and eight of them for open storage with/ without ancillary parking use were approved by the Committee or the Board on review as detailed in paragraph 6 above. While the last application (No. A/YL-KTN/632) was revoked owing to non-compliance with approval conditions related to the implementation of drainage proposal, run-in/out proposal and landscape proposal, the applicant states that they have all been completed and are shown in the current submission. Relevant technical proposals have been included in support of the current application with no adverse comment received from relevant departments. Should the Committee decide to approve the application, the applicant will be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application.
- 12.7 Regarding the public comments on the application as detailed in paragraph 11 above, government departments’ comments and planning assessments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department considers that the applied use 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 26.8.2025. 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 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) the maintenance of the existing peripheral fencing on the Site 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 submission of a 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 26.11.2022;
- (g) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the implementation of the 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 26.2.2023;
- (i) the implementation of the accepted landscape proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.2.2023;
- (j) if any of the above planning condition (a), (b), (c), (d), (e) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; nd
- (k) if any of the above planning condition (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

### Advisory clauses

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

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

the development 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 to justify 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 for renewal of the planning 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**

<b>Appendix I</b>	Application form with supplementary information received on 30.6.2022
<b>Appendix Ia</b>	FI received on 18.8.2022
<b>Appendix Ib</b>	FI received on 23.8.2022
<b>Appendix II</b>	Relevant extract of the TPB PG-No. 13F
<b>Appendix III</b>	Good Practice Guidelines for Open Storage Site issued by Director of Fire Services
<b>Appendix IV</b>	Previous and similar applications
<b>Appendix V</b>	Government department's general comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Appendix VII</b>	Public comments

<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
AUGUST 2022**