

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/894

<u>Applicant</u>	: Paak Wan Machinery Limited represented by BMI Appraisals Limited
<u>Site</u>	: Lot 702 S.C (Part) in D.D. 106, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 3,477m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	: Temporary Container Vehicle Repair Yard with Ancillary 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 container vehicle repair yard with ancillary office for a period of 3 years (**Plan A-1a**). The Site is zoned “R(D)” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three 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 used for the applied use without planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is the subject of twenty previous applications for various temporary open storage uses. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) or by the Board on review between 1999 and 2017, except application No. A/YL-KTS/244 which was rejected by the Board on review on 26.10.2001. The last Application No. A/YL-KTS/763 for renewal of a planning approval for temporary open storage of metal and construction materials with ancillary office for 3 years was approved with conditions by the Committee on 22.12.2017. The planning permission lapsed on 3.1.2021.

- 1.3 According to the applicant, there are 20 structures, with a total floor area of about 1,122.5m² and building heights ranging from about 2.6m to 6.5m, for vehicle repair yard, storage, canopy, ancillary office and toilet within the Site. The operation hours are from 8:00am to 7:00pm Monday to Saturday. There will be no operation on Sunday and public holiday. The ingress/egress is located at the eastern boundary of the Site abutting Shek Kong Airfield Road. Three car parking spaces for private vehicles (two for staff and one for visitors), one car parking spaces for heavy goods vehicle and one loading/unloading bay are provided within the Site. 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 planning statement received on 8.6.2021 with replacement pages received on 10.6.2021 (**Appendix I**)
 - (a) Further Information (FI) received on 23.9.2021 in response to departmental comments (*accepted and exempted from publication and recounting requirements*) (**Appendix Ia**)
- 1.5 On 23.7.2021, the Committee agreed to defer a decision on the application for two months to allow time for the applicant to prepare FI to address departmental comments. After deferral request, the applicant submitted FI in September 2021 in response to the departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicant**

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

- (a) The planning application is temporary in nature and it has no conflict with the planning intention of the “R(D)” zone;
- (b) The development takes full advantage of the location and the physical conditions of the Site to provide spaces for high demand open storage space/repair yard in the area;
- (c) The Site falls within Category 2 area under the TPB PG-No. 13F where planning permission for the proposed use could be granted on a temporary basis should there be no adverse departmental comments and local objections;
- (d) The proposed use is compatible with the surrounding land uses which are mainly open storage and vehicle repair yards;

- (e) Landscape provisions, drainage facilities, site paving and fencing have been installed in the Site to comply with the approval conditions of the previous planning approval; and
- (f) The development would not generate adverse traffic, drainage, visual, landscaping and environmental impacts on the surrounding area. No precedent case would be anticipated.

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

The applicant is not the “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 notices and sending notices to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site falls within Category 2 area under the Town Planning Board Guideline for Application for Open Storage and Port Back-up Uses (TPB PG-No.13F) promulgated by the Board on 27.3.2020. The relevant extract of the Guideline 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 is involved in twenty previous applications for various temporary open storage uses. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All the applications, except application No. A/YL-KTS/244, were approved with conditions by the Committee or by the Board on review between 1999 and 2017 on similar considerations that the developments were not incompatible with the surrounding areas; the applications were generally in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses; previous approvals were granted and there were no adverse departmental comments or the departmental concerns could be addressed by approval conditions. However, planning permissions for applications No. A/YL-KTS/205, 267, 272, 273, 283, 584 and 611 were revoked due to non-compliance with approval conditions.
- 6.3 The last Application No. A/YL-KTS/763 for renewal of a planning approval for temporary open storage of metal and construction materials with ancillary office for 3 years was approved with conditions by the Committee on

22.12.2017. All approval conditions of this application have been complied with. Its planning permission lapsed on 3.1.2021.

7. Similar Application

There is no similar application for container vehicle repair yard within the same and adjoining “R(D)” zones in the vicinity of the Site on the Kam Tin South OZP.

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

8.1 The Site is:

- (a) abutting Shek Kong Airfield Road to the east;
- (b) majority of the Site is fenced off; and
- (c) currently used for the applied use without planning permission.

8.2 The surrounding areas are rural in character, mixed with open storages yards, parking of construction machinery, residential structures/dwellings, amenity area, vacant/vegetated land and barracks:

- (a) to its immediate north are open storage yards, parking of construction machinery and a few residential structures/dwellings. Shek Kong Barracks is located to the further north and further east across Shek Kong Airfield Road;
- (b) to its immediate south is an open storage of vehicles and vehicle parts operated with valid planning permission under application No. A/YL-KTS/883, some residential structures/dwellings and vegetated land. Some vacant/vegetated land could be found further south across Kam Tin River; and
- (c) to its immediate west are a few residential structures (the nearest about 10m away) and vegetated land.

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 are summarized 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 Scheduled 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) Lot 702 S.C in D.D. 106 is covered by a Short Term Waiver (STW) No. 4106 to permit structures erected thereon for the purpose of “temporary open storage of metal and construction materials with ancillary office”.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW 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. Applications for any of the above will be considered by LandsD 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 LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, the condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site from Shek Kong Airfield Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There has been no environmental complaint received in the past 3 years. However, in accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”), he does not support the application as the temporary use under application will cause traffic of heavy vehicles and there are sensitive receivers, i.e. residential dwellings, located to the immediate west (the nearest one about 10m away) and in the vicinity of the Site (**Plan A-2**), and environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirement in the latest COP issued by DEP.

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 in-principle to the development from the landscape planning point of view.
- (b) The Site is the subject of 20 previous applications and the last application (No. A/YL-KTS/763) submitted for temporary open storage of metal and construction materials with ancillary office, to which she had no objection from the landscape planning perspective, was approved for a period of 3 years by the Committee on 22.12.2017.
- (c) Compared with the aerial photos of 2017 and 2020, there is no significant change to the surrounding landscape setting since the last application was approved. According to the site photos taken by his office in June 2021, the Site is fenced off, mainly hard paved with existing temporary structures in operation. Approximately 13 *Ficus microcarpa* (細葉榕) are found at the eastern boundary of the Site. According to the layout plan in the planning statement, the proposed layout is not in direct conflict with the existing trees. Significant adverse impact to the existing landscape resources is not anticipated.

- (d) The applicant is reminded that approval of the planning application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works, where appropriate.

Drainage

10.1.6 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 approve the application, approval conditions requiring the submission of a drainage proposal and 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 included.

Nature Conservation

10.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the Site has been paved and used for an open storage for some years, he has no comment on the application from nature conservation perspective.

Building Matters

10.1.8 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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) Detailed checking under BO will be carried out at building plan submission stage.

Fire Safety

10.1.9 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no particular comment on the application.

10.2 The following government departments have no objection to or no adverse comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 18.6.2021, the application was published for public inspection. During the three-week statutory publication period, six public comments from individuals were received (**Appendix IV**). The commenters object to / raise concerns on the application mainly on the grounds that development located in residential cluster will lead to traffic congestion, environmental pollution, increase risks of fire hazard, affect the living quality of the villagers, and flight safety concern given its close proximity to the Shek Kong Airfield.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary container vehicle repair yard with ancillary offices in the "R(D)" zone. The planning intention of the "R(D)" zone is primarily for improvement and upgrading the existing temporary structures within the rural areas through redevelopment of existing temporary structures

into permanent buildings, and for low-rise, low density residential development subject to planning permission from the Board. Whilst the applied use is not in line with the planning intention of the “R(D)” zone, there is no known programme for residential development at the Site. It is considered that the temporary planning permission for 3 years would not jeopardize the long-term planning intention of the “R(D)” zone.

- 12.2 The applied use is considered not incompatible with the surrounding areas which are mixed with open storages yards, residential structures/dwellings, vacant/vegetation and barracks (**Plans A-2 and A-3**).
- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. 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 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 considered generally in line with the TPB PG-No. 13F in that there is generally no adverse comment from concerned departments. DEP does not support the application as there are sensitive receivers i.e. residential structures/dwellings to the west of the Site (nearest about 10m away), and the applied use involves the use of heavy vehicles whereby environmental nuisance is expected. Nevertheless, the Site is located near Shek Kong Airfield Road and vehicles entering/exiting the Site do not need to pass by residential structures/dwellings. Besides, there was no environmental complaint in the last three years. To address the concern of DEP on potential environmental nuisance, approval conditions restricting the operation hours and maintenance of the existing boundary fence are proposed in paragraphs 13.2(a) to (c) below. Non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to undertake environmental mitigation measures as set out in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise the possible environmental impacts on the adjacent area. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) in paragraph 13.2 below.

- 12.5 The Site is involved in 20 previous applications for various temporary open storage uses with all approved by the Committee/Board on review (except application No. A/YL-KTS/244) between 1999 and 2017 for reasons stated in paragraph 6.2 above. There is no similar application in the vicinity of the Site.

- 12.6 Six public comments objecting to / raising concern on the application were received during the statutory publication period as mentioned in paragraph 11 above. Regarding the flight safety concern, the development with building height of not more than 6.5m does not exceed the airport height restrictions of Shek Kong Airfield (i.e. 19mPD to 39mPD) applicable to the Site. On other

concerns raised in the public comments, the departmental comments and planning assessments and considerations above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary container vehicle repair yard with ancillary office could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 12.11.2024. 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 8:00 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) the existing boundary fencing at the Site shall be maintained at all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (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 12.5.2022;
- (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 12.8.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.5.2022;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.8.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) 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

- (k) if any of the above planning condition (e), (f), (h) and (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 V**.

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

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 through redevelopment of existing temporary structures into permanent buildings, and for low-rise and low-density residential developments. There is 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 Planning Statement received on 8.6.2021 with Replacement Pages received on 10.6.2021
Appendix Ia	FI received on 23.9.2021
Appendix II	Relevant Extract of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan

Plans A-1a	Location Plan
Plans A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2021**