

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/412

<u>Applicant</u>	: Mr. MAN Yat Sing represented by Mr. MAN Kam Hing
<u>Site</u>	: Lots 2688 RP (Part), 2729 (Part) and 2730 RP (Part) in D.D. 102 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,066 m ² (including 167m ² (about 15.7%) of GL)
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12
<u>Zoning</u>	: “Open Storage” (“OS”)
<u>Application</u>	: Temporary Container Tractor/Trailer Park 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 tractor/trailer park for a period of 3 years. The Site falls within an area zoned “OS” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1a**). According to the Notes of the OZP, ‘Container Vehicle Park/Container Vehicle Repair Yard’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is involved in 6 previous applications. Approval had been granted to the current applicant for the same applied use in 2011, 2014 and 2017 (No. A/YL-NTM/258, 300 and 343) and the applicant had complied with all relevant approval conditions. The planning permission of the last application (No. A/YL-NTM/343) lapsed on 24.6.2020.
- 1.3 The Site is currently used as a container tractor/trailer park without planning permission. According to the layout plan (**Drawing A-1**) submitted by the applicant, ingress/egress to the Site is located at the western site boundary, which is accessible from Kwu Tung Road through a local access. The Site provides 3 parking spaces (each 3.5m x 16m) for container vehicles with associated manoeuvring space and a 2-storey structure of 5m high with a total floor area of about 60m² for ancillary office use near the ingress/egress. The operation hours

of the container tractor/trailer park are between 8:00 a.m. to 7:00 p.m. on Mondays to Saturdays (closed on Sundays and public holidays).

- 1.4 The current application is the same as the last approved application (No. A/YL-NTM/343) in terms of applied use, site area, development layout, total floor area, number and height of structure, number of parking spaces and operation hours.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 16.2.2021. **(Appendix I)**
 - (b) Further Information (FI) received on 9.3.2021 providing the Certificate of Fire Service Installation (FSI) and Equipment, photos of the existing drainage and FSI at the Site and response to departmental comments. * **(Appendix Ia)**
 - (c) FI received on 12.4.2021 providing response to departmental comments. * **(Appendix Ib)**

Remarks: * *accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ia**. They can be summarised as follows:

The application is in line with the planning intention. The use was previously approved by the Board and the relevant approval conditions have all been complied with. The facilities on Site are well-maintained. It is hoped that the Board could continue to grant approval for the application.

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

The applicant is not the “current land owner” of the private land within the Site and 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/ Notification” requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Guidelines (TPB PG-No. 13F) for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ is relevant to

this application (**Appendix II**). The Site falls within Category 1 areas under the guidelines. Favourable consideration will normally be given to applications within these areas, subject to no major 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 should be submitted if the proposed uses may cause significant environmental and traffic concerns.

5. **Background**

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

6. **Previous Applications**

- 6.1 The Site is involved in 6 previous applications (No. A/YL-NTM/117, 172, 215, 258, 300 and 343) (**Plan A-1b**) for temporary container tractor/trailer park use which were approved between 2001 to 2017. The first three applications (No. A/YL-NTM/117, 172 and 215) were submitted by another applicant.
- 6.2 The latter 3 applications (No. A/YL-NTM/258, 300 and 343) were submitted by the current applicant. The last application (No. A/YL-NTM/343) was approved on 23.6.2017 as the application was generally in line with the planning intention and the TPB Guidelines for Application for Open Storage and Port Back-up Uses; the applied use was compatible with the land uses of the surrounding areas; there were generally no adverse departmental comments, except for the environmental concern raised by the Environmental Protection Department which could be addressed by imposing approval conditions. The applicant had fulfilled all approval conditions of these 3 applications.
- 6.3 Details of the applications are summarised at **Appendix III**.

7. **Similar Applications**

- 7.1 Since the promulgation of TPB PG-No. 13E on 17.10.2008, the Committee has considered 38 similar applications for temporary port back-up uses, including cargo handling and forwarding facility, container vehicle park, container storage and repairing use, within the same "OS" zone (**Plan A-1a**). Among them, 32 were approved, mainly on considerations that the applied uses were not incompatible with the surrounding uses and there were no adverse departmental comments. The remaining 6 applications were rejected mainly for the reasons that the developments were not in line with the then TPB-PG No. 13E in that there were adverse departmental comments, and no technical assessment to demonstrate that the developments would not have adverse environmental/drainage/agricultural/traffic impacts on the surrounding areas.
- 7.2 A similar application (No. A/YL-NTM/416) for temporary public vehicle park (private cars and container vehicles), vehicle repair workshop, open storage of construction materials and ancillary offices will be considered at this meeting. (**PlanA-1a**).

7.3 Details of the applications are summarised at **Appendix IV**.

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

8.1 The Site is:

- (a) currently used for parking of vehicles and container tractors/trailers without valid planning permission; and
- (b) accessible from Kwu Tung Road to its northwest via a local access.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northwest are some unused land,;
- (b) to the further north and northwest across Kwu Tung Road are some unused land, residential dwellings and storage/open storage yards and temporary container vehicle park (approved under Application No. A/YL-NTM/380);
- (c) to the south are a temporary yard for wholesale trade (food) and storage (approved under Application No. A/YL-NTM/398) and a residential dwelling (about 11m away). Further south are warehouses/storages and residential dwellings; and
- (d) to its east and southeast are warehouses, open storage of transformers, warehouse/storage, and container vehicles park and warehouse.

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction

that no structures are allowed to be erected without the prior approval of the Government.

- (b) The GL of the Site is covered by a Short Term Tenancy (STT) No. 2815 for the purpose of “Temporary Container Tractor/Trailer Park”.
- (c) The private land Lot No. 2688 RP in D.D.102 is covered by Short Term Waiver (STW) No. 3784 to permit structures for the purpose of “Ancillary Structures to Container Tractor/Trailer Park”.
- (d) Should planning approval be given to the subject application, the STT/STW holders will need to immediately apply to his office for modification of the STT/STW conditions where appropriate. Moreover, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularise any irregularity on site, if any. Besides, given the applied 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 of 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 rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to Kwu Tung Road via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Kwu Tung Road should be approved by TD;
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Kwu Tung Road.

- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the Administrative Route Protection (ARP) boundary of the planned Northern Link (NOL).
- (b) Considered the temporary nature of the application, the impact on NOL pre-construction (e.g. geotechnical investigation) and construction works is tolerable within 3 years.
- (c) Should the above application be approved, approval condition should be attached such that access, occupancy and usage of the portion of GL within the Site should be allowed for MTR Corporation Limited and their contractor(s) to carry out works.
- (d) The applicant should note that the alignment and the ARP boundary of NOL may be subject to further amendments.

Environment

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

- (a) The application indicates 3 parking spaces for container tractor, which is considered as “heavy vehicle”. He does not support the application as there are sensitive uses in the vicinity of the Site (the closest residential dwelling being about 11m to its south) (**Plan A-2**) and environmental nuisance is expected.
- (b) No environmental complaint pertaining to the Site has been received over the past 3 years.
- (c) Should the application be approved, the applicant is advised to follow the environmental mitigation measures as recommended in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) in order to minimise the potential environmental impacts on the surrounding areas.

Landscape

10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) The Site falls within “OS” zone which is not a landscape sensitive zoning and “Category 1” areas according to TPB-PG No. 13F. There are no significant landscape resources within the Site.

- (b) In view that the Site is not abutting prominent public frontage and existing trees between the Site and Kwu Tung Road are observed, it is considered not necessary to impose a landscape condition should the application be approved, as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

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 application from the drainage operation and maintenance point of view.
- (b) As revealed by the joint site inspection held with the applicant's representative, construction of the drainage facilities for the application has been completed to his satisfaction.
- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) The applicant is reminded that the drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (e) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant should consult DLO/YL regarding all the drainage works outside the site boundary in order to ensure unobstructed discharge from the Site in future.
- (g) All the drainage facilities should be maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on the Site under proper maintenance at all times.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to FSIs being provided to his satisfaction.
- (b) The FSIs proposal submitted by the applicant is considered acceptable to his department. The applicant is advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on

whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to D of FS.

- (c) 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) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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 BO.
- (c) His detailed comments are at **Appendix VI**.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (c) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (d) Head of Geotechnical Engineering Office, CEDD; and
- (e) District Officer (Yuen Long).

11. Public Comment Received During Statutory Publication Period

On 23.2.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 16.3.2021, 1 objecting comment was received from an individual (**Appendix V**) on the ground that the application would induce traffic congestion, pollution, fire risk and affect the safety and living quality of the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is to seek planning permission to continue to use the Site within “OS” zone for temporary container tractor/trailer park for a period of 3 years. The applied use is generally in line with the planning intention of the “OS” zone, which is intended primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. The applied use is considered compatible with the surrounding land uses which are mostly warehouses/storages/open storages and container vehicle park (**Plans A-2 and A-3**).
- 12.2 The Site falls within Category 1 areas under TPB PG-No. 13F where favourable considerations will normally be given to the application. The development is in line with the TPB PG-No. 13F in that there are generally no adverse comments from the concerned Government departments including C for T, HyD, CE/MN of DSD, D of FS and CTP/UD&L of PlanD from traffic, highway/railway development, drainage, fire safety and landscape perspectives. Technical requirements of CE/MN of DSD, D of FS and C for T can be addressed by imposing the approval conditions recommended in paragraphs 13.2 (d) to (f) below should the Committee decide to approve the application. While DEP does not support the application in view of the environmental nuisances as there are sensitive uses in the vicinity of the Site (the nearest residential dwelling is about 11m to the south of the Site (**Plan A-2**)), no environmental complaint against the Site was received by DEP in the past 3 years. To address DEP’s concerns, approval conditions restricting the operation hours and activities are recommended in paragraphs 13.2 (a) to (c) below. Besides, the applicant will be advised to follow the relevant measures and requirements in the latest COP to mitigate potential environmental impacts on the surrounding areas.
- 12.3 The Committee has approved 6 previous applications for the same use at the Site including 3 applications submitted by the current applicant as set out in paragraph 6. The current proposal is the same as the last Application No. A/YL-NTM/343 and the applicant had complied with all the approval conditions. As planning permission already lapsed on 24.6.2020, a fresh application is required.
- 12.4 As detailed in paragraph 7, the Committee has approved 32 similar applications (**Plan A-1a**) for temporary port back-up uses within the same “OS” zone since the promulgation of TPB PG-No. 13E in October 2008. Approval of the subject application is in line with the previous decisions of the Committee.
- 12.5 One objection was received during the statutory public inspection period of the application as detailed in paragraph 11. The planning assessment and departmental comments 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 comment mentioned in paragraph 11, the Planning Department has no

objection to the application.

- 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 16.4.2024. 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. on Monday to Saturday, 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 cutting, dismantling, melting, cleansing, repairing or other workshop activity is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reserve onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the implementation of 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 16.1.2022;
- (g) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (h) if the above planning condition (f) 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 reason for rejection is suggested for Members' consideration:

the development is not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) in that there is adverse comment from concerned government department and that no technical assessment has been submitted to demonstrate that the development

would not have adverse environmental impact on the surrounding sensitive receivers.

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 received on 16.2.2021
Appendix Ia	FI received on 9.3.2021
Appendix Ib	FI received on 12.4.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Public comment
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**