

RNTPC Paper No. A/YL-NTM/429
For Consideration by
the Rural and New Town
Planning Committee
on 10.12.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/429

<u>Applicant</u>	: Join Sunny Limited represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lots 445 S.B and 451 RP in D.D. 96 and adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 619 m ² (including GL of about 167 m ² (about 27%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<u>Zoning</u>	: “Open Storage” (“OS”)
<u>Application</u>	: Proposed Temporary Container Vehicle Repair Yard and Warehouse for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary container vehicle repair yard and warehouse for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “OS” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes for the “OS” zone, ‘Warehouse’ is a Column 1 use which is always permitted, while ‘container vehicle repair yard’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly occupied by an open shed and a structure.
- 1.2 The Site is the subject of three previous applications (Nos. A/YL-NTM/105, 119 and 402). The last application (No. A/YL-NTM/402) submitted by the same applicant for the same use was approved by the Rural and New Town Planning Committee (the Committee) on 18.9.2020 for a period of 3 years. The current application is submitted to include a larger site area with additional GL.
- 1.3 According to the layout plan (**Drawing A-1**) submitted by the applicant, the ingress/egress is located at its southern boundary directly accessible to Kwu Tung Road (**Plan A-2**). An open shed (not more than 8m in height) with a total floor area of about 586 m², covering a one-storey structure, is proposed at the Site for storage

of vehicle parts and vehicle repairing spaces. One loading/unloading (L/UL) space for light goods vehicle (LGV) will be provided. The operation hours are between 7:00 a.m. and 7:00 p.m. daily (excluding Sundays and public holidays). Compared with the last approved application No. A/YL-NTM/402, the current application is the same in terms of use, building height and operational hours, except involving a larger site area with inclusion of additional GL and an increased covered area (**Plan A-2**).

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

Application form with supporting documents received on (**Appendix I**)
12.10.2021

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supporting documents at **Appendix I**. They can be summarized as follows:

- (a) The proposed development which is temporary in nature is in line with the planning intention of the “OS” zone. The Site falls within “Category 1 Areas” under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of Town Planning Ordinance.
- (b) The operation is less active than other container storage sites and container vehicle parks. It involves repairing service for tractor heads specifically, and only 3 tractor heads will be served at a time. Only vehicle parts will be stored on site, and no petroleum or inflammable goods will be stored.
- (c) The proposed development can provide tractor head repairing services for cross-boundary vehicles. Job opportunities could also be provided for residents in the vicinity.
- (d) Workers and staff would travel to work by public transport or on foot. Only 1 L/UL space for LGV is proposed for delivery of vehicle parts and repairing materials and sufficient manoeuvring space is provided within the Site. There will be no queuing, reversing and manoeuvring of vehicles on public road. Given a relatively low trip generation and attraction rate, no significant adverse traffic impact is anticipated.
- (e) The proposed open-shed structure not exceeding 8m is compatible with the open storage and workshops in the surroundings.
- (f) On electricity safety aspect, the height of the proposed development is 8m (1 storey). The applicant also undertakes to maintain the minimum safety clearance, minimum vertical clearance and preferred working corridor during and after the construction. Warning notices will be posted at conspicuous locations to remind operators and workers.

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

The applicant is the sole “current land owner” of the Site. 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 under Section 16 of the Town Planning Ordinance (TPB PG-No.13F) provides guidelines for open storage and port back-up uses. The Site falls within Category 1 areas under the guidelines. The following criteria are relevant:

Category 1 areas: these are areas considered suitable for open storage and port back-up uses. 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 the subject of 3 previous approved applications (No. A/YL-NTM/105, 119 and 402) (**Plan A-1**)
- 6.2 Application No. A/YL-NTM/105 and 119 were submitted by different applicants. A/YL-NTM/105 for car repair workshop was approved with conditions by the Committee on 24.11.2000 for 3 years for the reasons that the development could provide repairing services to operators within the same “OS” zone; it was not incompatible with the land uses of the surrounding area; and was unlikely to generate significant adverse traffic, environmental and drainage impacts on the area. A/YL-NTM/119 for proposed temporary storage of diesel fuel in an automobile diesel oil storage tank for a period of 3 years was rejected by the Committee on 21.12.2001 because there was insufficient information in the submission to demonstrate that the proposed development would not cause fire and safety hazards in relation to the overhead powerlines.
- 6.3 The last application No. A/YL-NTM/402 was submitted by the same applicant of the subject application for the same use for a period of 3 years which was approved with conditions by the Committee in 2020 for the reasons that it was in line with the planning intention and TPB PG-No. 13F; it was not incompatible with the surrounding land uses; there were no adverse comments from Government departments; and relevant Government departments generally had no adverse

comments on/objecting to the application.

6.4 Details of these applications are summarized at **Appendix II**.

7. **Similar Applications**

- 7.1 There are 19 applications for temporary container vehicle/lorry/tractor/trailer parks, container storage, open storage of vehicle parts/construction materials, all of which involve ancillary repairing workshops uses; and 1 application (No. A/YL-NTM/265) for container vehicles and goods vehicles repair yard use within the same “OS” zone since the promulgation of the then TPB PG-No. 13E on 17.10.2008.
- 7.2 Amongst the 20 similar applications, 17 were approved with conditions by the Committee between 2009 and 2021 for reasons that the proposed developments were not incompatible with the surrounding uses; were in line with the planning intention of “OS” zone and the then TPB PG-No. 13E or 13F; and the approvals of the applications were in line with the Committee’s previous decisions. Of the 17 approved applications, 5 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining 3 similar applications, including A/YL-NTM/265 for proposed container vehicles and goods vehicles repair yard, were rejected by the Committee between 2009 and 2011 mainly on grounds that the developments were not in line with the then TPB PG-No. 13E in that the developments would have adverse environmental, traffic and drainage impacts on the surrounding areas, and the applicants failed to demonstrate that these impacts could be adequately addressed.
- 7.4 Details of these 20 applications are summarized at **Appendix III**. Their locations 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 Kwu Tung Road at its southern boundary; and
 - (b) partly vacant and partly occupied by an open shed and a structure, and with overhead powerlines running above the Site.
- 8.2 The surrounding areas are intermixed with vehicle parks, warehouses, workshops, open storage yards, vacant/unused land with a few scattered residential dwellings:
- (a) to its immediate east is storage of tyres; to its southeast across Kwu Tung Road are grassland and residential dwellings (the nearest being about 48m away);

- (b) to its south across Kwu Tung Road are a vehicle showroom and warehouses;
- (c) to its immediate west is a warehouse; to its southwest across Kwu Tung Road are vacant land and residential dwellings; and
- (d) to its north across Fanling Highway are some storages, warehouses, residential dwellings and agricultural land.

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage use. 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, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs 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) No permission is given for the occupation of GL included in the Site (about 167m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularise any irregularity on site, if any. The applicant has to exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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 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):

Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site 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 access arrangement to the Site from Kwu Tung Road should be commented by TD.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kwu Tung Road.
- (c) If the proposed run-in/out is agreed by TD, the applicant should provide a run in/out at Kwu Tung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (d) 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, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the administrative route protection (ARP) boundary and area of influence (AOI) of the Northern Link (NOL). The detailed planning and design of the NOL are still under development. The scheme (including railway alignment, railway structures and the corresponding route protection area, and potential tunnel design and corresponding construction methods, etc.) is subject to further changes.
- (b) The area within the ARP may be required to be vacated at the time for the construction, operation and maintenance of the NOL, while the area within AOI would be subject to nuisance, such as noise and vibration of the NOL. The applicant should have taken the impacts from NOL, such as vacating the area and the nuisance from the future construction, operation and maintenance of NOL, into consideration.
- (c) The construction of NOL may commence in 2025 tentatively, and the ground investigation (GI) works commenced in October 2021. As there may be proposed GI works for the NOL within or near the

application site, MTR may contact the applicant for any arrangement for the GI works at the location concerned. The applicant shall coordinate with the associated parties of the GI works.

Environment

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

- (a) He does not support the application as there are sensitive receivers in the vicinity of the Site (the nearest residential dwelling is located at about 48m southwest of the Site) and environmental nuisance is expected. The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.
- (b) No environmental complaint pertaining to the Site has been received over the past 3 years.

Landscaping

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

The Site falls within “OS” zone, which is not a landscape sensitive zoning, and “Category 1” areas according to TPB-PG No. 13F. No significant landscape impact is envisaged.

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 drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage submission to demonstrate how rain water falling onto or flowing to the Site will be collected, conveyed and discharged. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and inverted levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts according to the ‘Guideline on Preparation of the Drainage Proposal’ available at DSD’s homepage should be included. Approval of the drainage proposal must be sought prior to the implementation of drainage works on site
- (c) After completion of the drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations

marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.

- (d) His detailed comments are at **Appendix V**.

Nature Conservation

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

He has no comment on the application from nature conservation perspective as the Site falls within an area zoned “OS” zone and has been paved for some years. Should the application be approved, the applicant should avoid damages to trees surrounding the Site during operation.

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 by the Building Authority (BA) for the existing structures at the Site
- (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 captioned application.
- (c) For UBW erected on leased land, enforcement action may be taken by the Buildings Department 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 the BO.
- (d) His detailed comments are at **Appendix V**.

Fire Safety

10.1.10 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) 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 D of FS for approval. 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; and
 - (ii) 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 Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

10.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

There are 400kV extra high voltage overhead lines running above the Site, which is within the preferred working corridor of the concerned overhead lines as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) published by the Planning Department. The applicant should follow a set of conditions as set out in **Appendix V** for strict compliance.

10.1.12 Comments of the Project Manager (North), Civil Engineering and Development Department (PM(M), CEDD):

The Site is within the proposed boundary of San Tin / Lok Ma Chau Development Node (STLMC DN). According to the latest target programme of STLMC DN, it is targeted to commence works in phases for STLMC DN from 2024, and thus to seek the funding approval from Finance Committee in 2024. Therefore, the Site, within the boundary of STLMC DN, may probably be required for timely clearance and construction.

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Yuen Long), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

On 22.10.2021, the application was published for public inspection. During the first

three weeks of the statutory publication period which ended on 12.11.2021, 2 comments were received from individuals. One comment raises objection to the application for reasons that the proposed development would cause adverse traffic, environmental and fire safety impacts to the neighbourhood, and another comment raises concern that the current application includes more GL than the previous application (no. A/YL-NTM/402) approved in 2020 (**Appendix IV**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary container vehicle repair yard and warehouse for a period of 3 years at the Site. The proposed use is generally in line with the planning intention of the “OS” zone, which is intended primarily for provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It is also considered not incompatible with the surrounding land uses which are mostly storage/open storage yards, warehouses and some grassland/vacant land (**Plan A-2**).
- 12.2 The Site falls within Category 1 areas under the TPB PG-No. 13F where favourable consideration will normally be given to applications within these areas. The development is generally in line with the Guidelines in that there is no adverse comment from the concerned government departments including C for T, DAFC, CE/MN of DSD, D of FS, DEMS and CTP/UD&L of PlanD, except DEP. Technical requirements of CE/MN of DSD, D of FS and C for T can be addressed by imposing the approval conditions recommended in paragraph 13.2 below should the Committee decide to approve the application. While DEP does not support the application as it would cause environmental nuisances to the sensitive uses in the vicinity of the Site (the nearest residential dwelling is about 48m to the southeast of the Site (**Plan A-2**)), no environmental complaint against the Site have been received by DEP in the past 3 years. To address DEP’s concerns, approval conditions restricting the operation hours are recommended in paragraph 13.2 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 Site is the subject of 3 previous applications, including 2 approved applications for similar/same uses for temporary car repairing workshop/container vehicle repair yard and warehouse and 1 rejected application for a different use for temporary storage of diesel fuel in an automobile diesel oil storage tank. The Committee has also approved 17 similar applications for temporary container vehicle repair yard and related uses within the same “OS” zone and rejected 3 similar applications. The circumstances of the rejected applications are different from the current application in that the applicants failed to demonstrate that potential environmental, traffic and drainage impacts could be adequately addressed. Approval of the subject application is therefore in line with the previous decisions of the Committee.
- 12.4 Regarding the two public comments objecting to/raising concerns on the application as detailed in paragraph 11, the departmental comments and planning assessments above are of relevance.

13. Planning Department's Views

- 13.1 Based on the assessments in paragraph 12 and having taken into account the public comments 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 10.12.2024. 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 7:00 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 vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (d) 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 10.6.2022;
- (e) in relation to (d) 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 10.9.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of 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 10.6.2022;
- (h) in relation to (g) above, the provision of fire service installations 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 10.9.2022;
- (i) if any of the above planning condition (a), (b), (c), or (f) 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
- (j) if any of the above planning condition (d), (e), (g) or (h) 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 applicant has failed to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas.

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 and supporting documents received on 12.10.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar/Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos