

RNTPC Paper No. A/YL-PH/960
For Consideration by
the Rural and New Town
Planning Committee
on 8.9.2023

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

APPLICATION NO. A/YL-PH/960

<u>Applicant</u>	: Eastime Engineering Limited represented by Chief Force Limited
<u>Site</u>	: Various Lots in D.D. 110, Tsat Sing Kong, Pat Heung, Yuen Long
<u>Site Area</u>	: About 33,335m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plans</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11 and draft Kam Tin North OZP No. S/YL-KTN/10
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Warehouse and Open Storage of Construction Materials and Machineries with Ancillary Office and Staff Resting Room for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse and open storage of construction materials and machineries with ancillary office and staff resting room for a period of 3 years and filling of land at the application site (the Site). The Site falls within an area zoned “AGR” straddling the Pat Heung and Kam Tin North OZPs. According to the covering Notes of the OZPs, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zones also requires planning permission from the Board. The Site is largely vegetated and vacant, partly formed, erected with a few temporary structures, partly used for agriculture, and partly used for open storage of construction materials without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, major part of the proposed development will be used as three open storage yards for construction machineries and materials with a total area of around 18,821m² and four 1-storey structures with building heights of not more than 6m and a total floor area of not more than 720m² will be erected for warehouse, ancillary office and staff resting room. Eight private car parking spaces, ten light goods vehicle parking spaces and four heavy goods vehicle parking spaces will be provided. The entire Site will be filled by asphalt and concrete by 0.25m from a range of +11.40mPD to +24.60mPD to a range of +11.65mPD to +24.85mPD. No workshop activities will be carried out within the

Site. The proposed operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The Site is accessible to Kam Tin Road via a local track. The site layout plan submitted by the applicant is shown on **Drawing A-1**.

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

- (a) Application form and supplementary information (SI) (**Appendix I**)
received on 15.6.2023 and 23.6.2023
 - (b) Further Information (FI) received on 18.7.2023 and (**Appendix Ia**)
21.7.2023[#]
 - (c) FI received on 2.8.2023* (**Appendix Ib**)
 - (d) FI received on 18.8.2023* (**Appendix Ic**)
 - (e) FI received on 5.9.2023* (**Appendix Id**)
- [#] *accepted but not exempted from publication and recounting requirements*
 * *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 the application form, SI and FIs at **Appendices I to Id**, which can be summarised as follows:

- (a) The current application is submitted by Eastime Engineering Limited and on behalf of two other business undertakings (namely the Yongmao Machinery (HK) Co Limited and Eastime Construction Equipment Engineering Limited) which share the same site with existing open storage businesses near Shan Ha Tsuen (山下村), Yuen Long. The businesses are main suppliers of construction machineries including tower cranes in Hong Kong. As the existing open storage site is included in the Yuen Long South Development, the operation is affected by land resumption by the Government. The move out date of the existing site had passed. The applicant urgently needs to relocate the businesses to the Site to continue the operation as they serve as an important support to the local construction industry and can play a role in the upcoming major development projects in the future.
- (b) The applicant has undergone a site selection process in the territory for reprovisioning of the businesses, taking into account factors including affordability, suitability and availability of possible sites. The current Site is around 38% larger than the existing site with an area of about 24,155m². The applicant explains that it is not undesirable to stack up construction machineries due to safety concern and a more extensive site is therefore needed. The Site is highly accessible with the provision of existing road and is considered suitable for continuing the businesses.
- (c) It would not induce adverse environmental, traffic, drainage and landscape impacts on the surrounding areas. 29 existing trees in the Site will be retained while 83 existing trees will be felled. The applicant will compensate the felled trees in 1:1 ratio. The compensatory trees will be mainly planted along the periphery of the Site to provide screening effect. To minimise possible environmental nuisance to the nearby area, boundary fencing will be erected along the Site; and no workshop activities will be involved. In addition, the parking spaces of heavy goods vehicle are located at the southern part of the Site, which is at a distance from the residential

structures/dwellings of the village settlement of Tsat Sing Kong (七星崗) located to the northwest of the Site. The applicant will comply with all the planning conditions which may be stipulated by the Rural and New Town Planning Committee (the Committee).

- (d) Five managers of the subject Tang Sam U Tong (鄧三餘堂) (i.e. land owner of Lot 247, 262, 265, 269, 277 and 285 in D.D. 110) have been contacted and there is no objection to the application from the relevant managers.

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

The applicant is not the “current land owner” but have 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 notice at the Site and sending notice to the Pat Heung Committee by registered mail.

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. 13G) promulgated on 14.4.2023 are relevant to the application. The Site falls within Category 3 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

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

6. **Previous Application**

- 6.1 Part of the Site is involved in a previous application No. A/YL-PH/366 for temporary open storage of vehicles for disposal rejected by the Board on review in September 2001 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the development was not compatible with the surrounding areas; and there was insufficient information to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas.
- 6.2 Details of the application are summarised in **Appendix III** and the location is shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are nine similar applications (No. A/YL-PH/774, 825 and 936; and A/YL-KTN/654, 704, 706, 729, 893 and 906), involving six sites, for various

temporary open storage uses (including renewal of temporary planning approval) within/straddling the same “AGR” zones on the Pat Heung and Kam Tin North OZPs in the vicinity of the Site in the past 5 years.

- 7.2 Application No. A/YL-PH/774 for temporary open storage of construction machinery and equipment was rejected by the Board on review in July 2018 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the application did not comply with the then TPB-PG No. 13E in that there was no previous approval granted and there were adverse departmental comments and public objection against the application; and the applicant failed to demonstrate that the development would not generate adverse environmental and landscape impacts on the surrounding areas.
- 7.3 The remaining eight applications (No. A/YL-PH/825 and 936; and A/YL-KTN/654, 704, 706, 729, 893 and 906) were all approved by the Committee between May 2019 and May 2023, mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was considered not incompatible with the surrounding land uses; relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions; and the development was generally in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses. The planning permission under application No. A/YL-KTN/654 was revoked in June 2019 due to non-compliance with approval conditions.
- 7.4 Details of the applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
 - (a) largely vegetated and vacant, partly formed, erected with a few temporary structures, partly used for agriculture, and partly used for open storage of construction materials without valid planning permission; and
 - (b) accessible to Kam Tin Road via a local track.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to the north are woodlands;
 - (b) to the east are residential structures/dwellings and cultivated agricultural land;
 - (c) to the south are temporary shop and services (motor-vehicle showroom)/ (sales of vehicle parts) (with valid planning permissions under applications No. A/YL-PH/851 and 874) and a water nullah. To the further south across the nullah are the works site for proposed temporary transitional housing development and place of recreation, sports or culture (hobby farm) (with valid planning permission under application No.

A/YL-PH/913), parking of vehicles (with valid planning permission under application No. A/YL-KTN/888) and open storage of construction materials (with valid planning permission under application No. A/YL-PH/936);

- (d) to the southwest are an open storage/storage yard, grassland and vacant land; and
- (e) to the west and northwest in the “Village Type Development” zone are residential dwellings/structures of the village settlement of Tsat Sing Kong (the nearest within 5m from the Site) and open storage/storage yards.

9. Planning Intentions

- 9.1 The planning intentions of the “AGR” zones are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. They are also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.2 According to the Explanatory Statements of the OZPs, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/Departments

- 10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government bureau supports the application:

Policy Aspect

Comments of the Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a brownfield operation for storage of construction machineries and building materials in Yuen Long, which will be displaced by the First and Second Phases developments of the Yuen Long South development (the project);
- (b) according to the applicant, a thorough site search has been conducted with a view to identifying suitable site for re-establishment of its business elsewhere to pave way for the clearance under the project, and the site under the current application is the only one considered suitable and practicable after the site search. While it is noted that the application site is larger than the one to be cleared by the Government, the applicant explains that due to the operation need and safety concern, it requires an enlarged site; and

- (c) according to the concerned departments, the proposed use is not incompatible with surrounding land uses and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate smooth clearance for the project and provide operating space for displaced brownfield operations still needed by the community, the application is supported from the policy perspective.

10.3 The following government departments do not support the application:

Agriculture and Nature Conservation

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

- (a) a small portion of the Site is under active farming. Agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective; and
- (b) no comment on the application from nature conservation perspective.

Environment

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

- (a) the Environmental Protection Department (EPD) does not support the application as it would cause traffic of heavy vehicles and there are residential dwellings in the vicinity of the Site (**Plan A-2**), environmental nuisance to the nearby residential uses could be generated by the proposed use;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance from the proposed use;
- (c) no adverse comment on the proposed filling of land; and
- (d) there was no substantiated environmental complaint received against the Site in the past three years.

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

The application was published for public inspection. During the statutory public inspection periods, a total of ten public comments (one supporting comment and nine objecting comments) were received. A public comment from a resident representative of

Tsat Sing Kong supports the application mainly on the reasons that the proposed development would improve the utilisation of the Site and reduce the number of unauthorised developments. Nine public comments from the Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society, managers of Tang Sam U Tong and individuals object to the application mainly on the grounds that the proposed development is related to “destroy to build” activities; the area of land filling is large; no information has been provided on the existing trees; the proposed development would cause adverse environmental impact; not in line with the planning intentions of the “AGR” zones; and prior consent from land owner for the proposed development has not been obtained.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary warehouse and open storage of construction materials and machineries with ancillary office and staff resting room for a period of 3 years and filling of land at the Site zoned “AGR” on the OZPs. The proposed development is not in line with the planning intentions of the “AGR” zones, which are to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes, and DAFC does not support the application from agricultural perspective. Nevertheless, it is noted that the application is to facilitate relocation of the business operation affected by the Yuen Long South development. With the policy objective of facilitating smooth clearance for the Yuen Long South development and providing operating space for displaced brownfield operations still needed by the community, SDEV supports the application. Taking into account the planning assessments below, the proposed development on a temporary basis of 3 years could be tolerated.
- 12.2 Filling of land within the “AGR” zones require planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and DEP have no adverse comment on the proposed filling of land from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The proposed development is not incompatible with the surrounding uses which is rural in character predominated by open storages, residential structures/dwellings and vacant land. The applicant proposes to compensate the felled trees in 1:1 ratio and the trees will be planted along the periphery of the Site for screening purpose. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective considering that the proposed development is not incompatible with the surrounding landscape character.
- 12.4 While DEP does not support the application in considering that environmental nuisance could be generated by the proposed development as it would cause the use of heavy vehicles, the proposed vehicular access is on the south of the Site which is at a distance from the residential dwellings to the west and northwest. The applicant also proposes to erect boundary fencing along the Site to minimise nuisance to the surrounding area, and no workshop activities will be conducted at

the Site. To address DEP's concern, approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 13.2 below. To minimise any potential environmental nuisances, the applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' issued by EPD.

- 12.5 The Site falls within Category 3 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 3 areas: applications would normally not be favorably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding 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.

Having considered that the open storage and port back-up uses have a role to play in Hong Kong's economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to such type of applications, except those involving land in Category 4 area (only minor encroachment may be allowed), if the following criteria are met: (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and (ii) no adverse departmental comments and local objections, or the concerns could be addressed by approval conditions.

- 12.6 The application is considered generally in line with TPB PG-No. 13G in that policy support is given by SDEV to the application for relocation of the affected uses/operations to the Site, and that relevant departments consulted, including the Commissioner for Transport, CE/MN of DSD and the Director of Fire Services, have no objection/no adverse comment on the application. Concerns of DEP can be addressed as stated in paragraph 12.4 above. To address the technical requirements of concerned government departments, appropriate approval conditions are also recommended in paragraph 13.2 below.
- 12.7 There are a previous application and nine similar application for various open storage uses. Although the previous application and one similar application were rejected due to reasons including various adverse impacts; incompatibility with the surrounding and incompliance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses as detailed in paragraphs 6 and 7 above, it is considered that the planning circumstances of the current application are different from the rejected previous and similar applications as policy support is given to the current application from SDEV; there is no adverse

departmental comment or the concern can be addressed by relevant approval conditions; and it is generally in line with TPB PG-No. 13G as mentioned in paragraphs 12.4 to 12.6 above. In this regard, approval of the current application is in line with the Committee's previous decisions on the approved similar applications.

- 12.8 Regarding the public comment objecting to the application received from the managers of Tang Sam U Tong, the applicant indicates that no objection from the managers of the concerned Tong has been obtained. The applicant will be advised to resolve any land issues relating to the proposed development with the concerned owner(s) of the Site. For the other public comments, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed development could be tolerated for a period of three years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 8.9.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 submission of a drainage impact assessment 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 8.3.2024;
- (e) in relation to (d) above, the implementation of the drainage proposal identified in the drainage impact assessment 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 8.6.2024;
- (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 provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.10.2023;
- (h) the submission of a revised fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.3.2024;
- (i) in relation to (h) above, the implementation of the revised 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 8.6.2024;
- (j) 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;
- (k) if any of the above planning condition (d), (e), (g), (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;
- (l) upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 proposed development is not in line with the planning intentions of the "AGR" zones which are primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. These zones are also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intentions, 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 and SI received on 15.6.2023 and 23.6.2023
Appendix Ia	FI received on 18.7.2023 and 21.7.2023
Appendix Ib	FI received on 2.8.2023
Appendix Ic	FI received on 18.8.2023
Appendix Id	FI received on 5.9.2023
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Fire Services Department's good practice guidelines for open storage sites
Appendix VII	Public comments
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**