

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/614

<u>Applicant</u>	: Mr. CHONG Tsz Long represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lots 56 RP, 165 RP, 166 RP and 167 S.B RP in D.D. 105 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 2,555.8m ² (including about 181.1m ² of GL)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”)
<u>Application</u>	: Temporary Vehicle Park for Goods Vehicles and Container Vehicles and Tyre Repair Area with Ancillary Canteen and Site 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 vehicle park for goods vehicles and container vehicles and tyre repair area with ancillary canteen and site office for a period of 3 years (**Plan A-1a**). The Site falls within the area zoned “R(D)” on the OZP. According to the Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site (in whole or in part) is the subject of eight previously approved applications (No. A/YL-ST/97, 119, 189, 309, 375, 418, 475 and 527) mainly for temporary goods/container vehicle parks with ancillary repair area (**Plan A-1b**). The last Application No. A/YL-ST/527 submitted by the current applicant for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) of

the Board on 3.8.2018 for a period of 3 years. The planning permission, however, was revoked on 3.1.2021 due to non-compliance with the approval conditions on implementation of the drainage proposal and provision of fire service installations (FSIs) by the applicant.

- 1.3 As shown on the layout plan at **Drawing A-1** and **Plan A-2**, the Site is accessible from the northwest via a local track off Shek Wu Wai Road leading to Castle Peak Road – San Tin in the north and San Tin Highway in the south. The development comprises a total of 13 structures of 1 to 2 storeys (2.6m to 7m), including two main structures of an open shed for tyre repair area and an ancillary canteen and 11 minor structures of container-converted site offices and E&M and utility facilities with a total gross floor area (GFA) of about 656.93m². There are three parking spaces for container vehicles and three parking spaces for heavy goods vehicles as shown in **Drawing A-1**. The applicant has submitted a drainage proposal (**Drawing A-2**). The operation hours are from 7:00 a.m. to 11:00 p.m. from Monday to Saturday and from 11:00 a.m. to 6:00 p.m. on Sundays and public holidays.
- 1.4 As compared to the last approved application No. A/YL-ST/527, there is no change to the applied use, development parameters, site layout and operation hours for the development at the Site.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 19.1.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 11.3.2022 **(Appendix Ia)**
providing site trip generation and clarification on the
access arrangement and replacement of Application
Form #

exempted from the publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendix I and Ia**. They can be summarised as follows:

- (a) The proposed car park will provide parking spaces and tyre repairing services for the goods vehicles and container vehicles across the border. It will also provide job opportunities to nearby residents.
- (b) The Site is subject of eight previous applications approved for the similar or same use but the planning approval for the last application (No. A/YL-ST/527 submitted by the current applicant) was revoked due to the applicant's failure to implement the drainage proposal and provide FSIs on site. The applicant is willing to comply with the conditions to the satisfaction of the relevant departments.
- (c) No adverse traffic, drainage and landscape impacts are anticipated.

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

The applicant is not a “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the 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

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)

- 4.1 According to TPB PG-No. 13F, the Site falls within Category 2 areas which are areas mostly without clear planning intention or fixed development programme; areas to be affected by major upcoming infrastructural projects; areas within or close to clusters of open storage, port back-up or other types of brownfield sites which are regarded as “existing uses” under the Town Planning Ordinance and/or subject of previous planning approvals. In addition, the areas should not be subject to high flooding risk.
- 4.2 For Category 2 areas, 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

5. Background

The Site is not subject to any enforcement action. However, suspected unauthorized use of storage, parking and eating place were observed at the Site. Warning poster was posted on site in November 2021. Should there be sufficient evidence that the current use constitute an unauthorised development under the Town Planning Ordinance, appropriate enforcement action would be undertaken by the Planning Authority.

6. Previous Applications

- 6.1 The Site is the subject of eight previous applications (No. A/YL-ST/97, 119, 189, 309, 375, 418, 475 and 527). All applications were approved by the Committee (**Plan A-1b**).
- 6.2 All the applications were for similar temporary goods vehicle parks (No. A/YL-ST/309, 375, 418, 475 and 527) or container vehicle parks (No. A/YL-ST/97, 119 and 189) with ancillary repair area and ancillary canteen (except for No. A/YL-ST/97 and 119)

submitted by different applicants. The applications were approved by the Committee between 1999 and 2018 for a period of 3 years (except for No. A/YL-ST/97 which was approved for a period of 12 months) mainly on the considerations that the proposed developments were in line with the then TPB PG-No. 13E (No. A/YL-ST/418 and 475), not incompatible with the surrounding uses, favorably considered as an interim arrangement to alleviate the acute shortage of open storage and port back-up land in the area (No. A/YL-ST/97 and 119), and previous planning approvals for similar use on the site had been given (No. A/YL-ST/189, 309, 375, 418 and 475).

6.3 The last application, No. A/YL-ST/527, submitted by the current applicant for the same applied use was approved by the Committee on 3.8.2018 for a period of 3 years mainly on the considerations that the development would not frustrate the long-term planning intention of the “R(D)” zone, not incompatible with the surrounding land uses, the site fell within the Category 2 areas under TPB PG-No.13E with previous approvals and no objection/adverse comment from concerned government departments. The planning permission, however, was revoked on 3.1.2021 due to non-compliance with the approval conditions on implementation of the drainage proposal and provision of FSIs.

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

7. Similar Applications

7.1 During the past five years, there were nine applications for similar vehicle parking and vehicle repair uses within the same “R(D)” zone on the OZP (**Plan A-1a**). All the applications were approved by the Committee mainly on the consideration that the developments were in line with TPB PG-No. 13E/F, not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “R(D)” zone.

7.2 Details of these applications are summarised at **Appendix III**.

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

8.1 The Site is:

- (a) accessible from the northwest via a local track off Shek Wu Wai Road leading to Castle Peak Road – San Tin in the north and San Tin Highway in the south;
- (b) currently used for the applied use without valid planning permission; and
- (c) located outside the Wetland Buffer Area (**Plan A-1a**).

8.2 The surrounding areas are predominated by open storage, vehicle parks, vehicle repair workshops and port back-up facilities:

- (a) to its immediate north is Castle Peak Road – San Tin. To its further north across Castle Peak Road – San Tin are a temporary logistics centre with ancillary container

vehicle park, vehicle repair workshop and car beauty service (approved under Application No. A/YL-ST/594), vacant land, vehicle park, a number of open storage yards of construction machinery, construction materials, construction waste, vehicle repair workshops and residential dwellings;

- (b) to its immediate west are a culvert and Shek Wu Wai Road. To its further west across Shek Wu Wai Road are a number of approved uses including temporary open storage yard and retail sale of construction machinery (Application No. A/YL-ST/551), vehicle park with storage of vehicle parts (Application No. A/YL-ST/589), warehouse for construction materials (Application No. A/YL-ST/548), vehicle park (Application No. A/YL-ST/572) and other uses including a latrine, a refuse collection point, vehicle park, residential dwellings, vegetable marketing co-operative societies and ruins;
- (c) to its south is San Tin Highway; and
- (d) to its east are a temporary public vehicle park (approved under Application No. A/YL-ST/590), open storage of lorry cranes, warehouse and parking of container vehicles, amenity area and vacant 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 summarised as follows:

Land Administration

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

- (a) The application site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs are 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) Lots Nos. 165 RP, 166 RP and 167 S.B RP in D.D.105 are covered by Short Term Waiver (STW) Nos. 3775, 4251 and 4252 respectively for the purposes of “Temporary Vehicle Park for Goods Vehicles and Container Vehicles and Tyre Repair Area with Ancillary Canteen and Site Office”.

- (c) The GL (about 181.1 m²) in the Site is covered by Short Term Tenancy (STT) No. 2978 for the purposes of “Temporary Vehicle Park for Goods Vehicles and Container Vehicles and Tyre Repair Area with Ancillary Canteen and Site Office”.
- (d) Should planning approval be given to the subject planning application, the STT/STW holder(s) will need to apply to this office for modification of the STT/STW conditions where appropriate. Also, the owner of the lot without STW will need to immediately apply to this office for permitting the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) 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(s) will be approved. If such application(s) 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 public road network via a section of a local access which is not managed by Transport Department (TD). The lands 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) As there is no information about the vehicular access at the private lot(s) to the Site, the applicant should seek the relevant land owner(s) on the right of using the vehicle access.
- (c) The applicant should ensure that vehicles would not encroach the opposite lane when turning to Shek Wu Wai Road from the Site via the vehicular access, and vice versa.
- (d) Having considered the application including the FI provided by the applicant, he has no objection in principle to the application from the traffic engineering perspective. Should the application be approved, a condition should be incorporated that 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 access arrangement to the Site from Shek Wu Wai Road should be approved by TD.

- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Shek Wu Wai Road.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) The application includes 6 parking spaces for container vehicles and heavy goods vehicles and the use of heavy vehicle is expected under the context of the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“the COP”). She does not support the application as the applied use will generate traffic of heavy vehicles and the Site is within 100m from the nearest sensitive use (i.e. a residential dwelling is about 39m northeast of the Site) and environmental nuisance is expected (**Plan A-2**). If the application is approved, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimise potential environmental impacts on the surrounding areas.
- (b) There was no environmental complaint related to the Site in the past 3 years.

Landscape

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

- (a) The Site is within the “R(D)” zone which is a non-landscape sensitive zoning and no significant landscape impact arising from the development is anticipated.
- (b) In view that the Site is not located within landscape sensitive zoning and there are existing trees as buffer planting around the Site, it is considered not necessary to impose a landscape condition should the Board approve the application.

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 application from drainage operation and maintenance point of view.

- (b) It is noted that the applied use and site area under the current application is the same as the previous application (No. A/YL-ST/527). The applicant has submitted a drainage proposal for the previous application which was approved by DSD (**Drawing A-2**). The proposed drainage system under this application is the same as the approved drainage proposal under the previous application. The applicant should implement the proposed drainage facilities and submit set of the latest record photographs showing the completed drainage works (including the internal condition of the drains) with the corresponding photograph locations marked clearly on the approved drainage plan for DSD's reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (c) His detailed comments are at **Appendix V**.

Fire Safety

10.1.7 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) FSIs are anticipated to be required in consideration of the design/nature of the proposal. 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, and the location of the proposed FSI 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 (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Building Matters

10.1.8 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 structures existing at the site.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any approved use under the application.

- (c) 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (e) His detailed comments are at **Appendix V**.

10.2 The following government department has no comment on or no objection to the application:

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Commission of Police;
- (c) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (d) Project Manager (West), Civil Engineering and Development Department;
- (e) Chief Engineer/Construction, Water Supplies Department; and
- (f) District Officer (Yuen Long).

11. Public Comments Received During Statutory Publication Period

On 28.1.2022, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 18.2.2022, two public comments were received from two private individuals raising objection to or concerns on the grounds that the development will result in traffic congestion, environmental pollution, fire risk and affect the living environment and safety of the villagers; and the applied use was in operation without fulfilling the approval conditions (**Appendix IV**).

12. Planning Considerations and Assessments

12.1 The applicant seeks permission for a temporary vehicle park for goods vehicles and container vehicles and tyre repair area with ancillary canteen and site office for a period of 3 years. The Site falls within 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. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the “R(D)” zone. However, approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “R(D)” zone as there is no immediate development proposal for the Site and similar use as the current proposal has previously been approved and under operation on a temporary basis at the Site. The proposed use is also not incompatible with the surrounding open storage, vehicle parks, vehicle repair

workshops and port back-up facilities (**Plan A-2**).

- 12.2 The Site falls within Category 2 area under TPB-PG No. 13F. The application is line with the guidelines in that there were previous approvals for temporary open storage and port back-up uses at the Site with the last application No. A/YL-ST/527 submitted by the current applicant for the same use with the same layout approved in 2018. Although the last approval was revoked on 3.1.2021 due to non-compliance with the conditions on implementation of the drainage proposal and provision of the FSIs, the applicant has submitted the drainage proposal and FS certificate in the current application. The applicant has committed to comply with all the approval conditions upon approval of the current application. CE/MN, DSD and D of FS have no objection to the current application. While DEP does not support the application as there are sensitive receivers in the vicinity of the Site (i.e. a residential structure is located to the northeast of the Site), no environmental complaint related to the Site was received by DEP in the past three years. Other government departments including C for T, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comments on the traffic, drainage and landscape aspects. Technical requirements of C for T, D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas. Shorter compliance periods are recommended to closely monitor the progress of compliance with the approval conditions. Moreover, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.3 The Site is subject of eight previously approved applications for similar uses as detailed in paragraph 6 above. During the past five years, the Committee has approved nine similar applications for temporary vehicle parking and vehicle repair uses within the same “R(D)” zone as detailed in paragraph 7 above. Approval of the current application is therefore in line with the previous decisions of the Committee.
- 12.4 Regarding the two public comments raising objection/concerns on the application as detailed in paragraph 11 above, the planning considerations 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 comments mentioned in paragraph 11 above, the Planning Department considers that the temporary vehicle park for goods vehicles and container vehicles and tyre repair area with ancillary canteen and site 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 18.3.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicles without valid licences issued under the Road Traffic Ordinance are allowed to be parked/stored on the site during the planning approval period;
- (b) *no vehicle is allowed to queue back to or reverse onto/from public road at all times during the planning approval period;***
- ~~(b)~~ (c) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- ~~(c)~~ (d) no operation between 6:00 p.m. and 11:00 a.m. on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- ~~(d)~~ (e) the implementation of the proposed drainage facilities and submission of photographic records of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.6.2022;
- ~~(e)~~ (f) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.6.2022;
- ~~(f)~~ (g) in relation to ~~(g)~~ (f) above, the provision of fire service installations 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 18.9.2022;
- ~~(g)~~ (h) if any of the above planning conditions ~~(a), (b) or (c)~~ (a), (b), (c) or (d) 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)~~ (i) if any of the above planning conditions ~~(d), (e) or (f)~~ (e), (f) or (g) 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 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 intention of the "R(D)" zone, which is for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings for low-rise, low-density residential development. No strong planning justification has been given in the submission for a departure from such 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 received on 19.1.2022
Appendix Ia	FI received on 11.3.2022
Appendix II	Previous s.16 applications
Appendix III	Similar s.16 applications
Appendix IV	Public comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**