

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1100

- Applicant** : Mr. Yeung Ka Wing represented by Metro Planning & Development Company Limited
- Site** : Lots 1265 (Part), 1266 (Part), 1269 (Part), 1270 (Part), 1271 (Part), 1272 (Part), 1273 (Part), 1275 RP (Part), 1276 (Part), 1277 S.A, 1277 RP (Part), 1279 S.B ss.1 S.F, 1279 S.B ss.2 (Part), 1279 S.B ss.3 in D.D. 119 and Adjoining Government Land (GL), Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 9,095 m² (about) (including about 238 m² of GL (about 2.6%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Undetermined” (“U”) (about 98.8%)
“Residential (Group C)” (“R(C)”) (about 1.2%)
[Restricted to a maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
- Application** : Temporary Warehouse for Storage of Construction Materials, Food Provisions, Vehicles, Vehicle Parts and Electronic Products 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 warehouse for storage of construction materials, food provisions, vehicles, vehicle parts and electronic products for a period of 3 years (**Plan A-1**). The Site mainly falls within an area zoned “U” (about 98.8%) with a minor portion within an area zoned “R(C)” (about 1.2%) on the OZP. According to the covering Notes of the OZP, all uses or development within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).

- 1.2 The Site involves five previous applications for various temporary warehouse uses (**Plan A-1b**). The last application (No. A/YL-TYST/941) for similar warehouse use was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 1.2.2019. However, the planning permission was revoked on 1.5.2021 due to non-compliance with time-limited approval conditions on submission and implementation of fire service installations (FSIs) proposal. Compared with the last application, the current application is submitted by the same applicant for similar warehouse use at the same site with slightly different development parameters and site layout.
- 1.3 According to the applicant, the temporary warehouse is for storage of construction materials (including pipes and sanitary wares), food provisions, vehicles, vehicle parts and electronic products (including mobile phones and tablets). No electronic waste will be stored at the Site and no workshop activity will be conducted within the Site. No medium and heavy goods vehicles, including container tractor/trailer, are allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation and landscape proposal, as-built drainage facilities and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application and the previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/941 (a)	Current Application No. A/YL-TYST/1100 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Materials, Food Provisions and Electronic Products for a Period of 3 Years	Temporary Warehouse for Storage of Construction Materials, Food Provisions, Vehicles, Vehicle Parts and Electronic Products for a Period of 3 Years	Including Storage of Vehicles and Vehicle Parts in the Current Application
Site Area	About 9,095 m ² (including about 238 m ² of GL)		--
Total Floor Area (non-domestic)	About 6,491 m ²	About 6,421 m ²	-70 m ² (-1.1%)
No. and Height of Structures	9 • for warehouses, rain shelter, covered access and FSIs (3.5-6.8m, 1 storey)	10 • for warehouses, rain shelter, covered access and FSIs (3.5-6.8m, 1 storey)	+1 (+11.1%)
No. of Parking Space(s)	1 (for private car) (2.5m x 5m)		--
No. of Loading/Unloading Space(s)	2 (for light goods vehicle) (7m x 3.5m each)		--

Operation Hours	9:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours
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1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with annex and plans received on **(Appendix I)** 18.5.2021
- (b) Further Information (FI) received on 25.6.2021 providing **(Appendix Ia)** FSIs Proposal
[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 **(Appendix I)**. They can be summarised as follows:

- (a) The Site was the subject of five previous planning permissions for storage use since 2006. The current application is submitted as there are changes in the applied use, the layout, the number of structures and the covered area. Nearly all the approval conditions imposed to the previous application (No. A/YL-TYST/941) had been complied with.
- (b) The proposal is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F).
- (c) The temporary proposal would not jeopardise the long-term planning intention. A number of open storage and port back-up uses have been approved by the Board in the vicinity of the Site and their planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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

The applicant is not a “current land owner” of the private land portion 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 the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in the TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves five previous applications for various temporary warehouse uses covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-TYST/328, 409, 565, 773 and 941 were all approved with conditions each for a period of 3 years by the Committee between 2006 and 2019, mainly on the considerations that the developments were not incompatible with the surrounding areas; the proposals would not frustrate the long-term development of the area; and relevant government departments consulted had no adverse comments. However, the planning permissions under applications No. A/YL-TYST/328 and 941 were revoked in 2007 and 2021 due to non-compliance with time-limited approval conditions on implementation of landscaping proposal, and submission and implementation of FSIs proposal respectively.
- 5.3 Compared with the last application (No. A/YL-TYST/941), the current application is submitted by the same applicant for similar warehouse use at the same site with slightly different development parameters and site layout.

6. Similar Applications

- 6.1 A total of 91 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 91 similar planning applications, 88 were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 28 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three planning applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019 on the grounds that approval of applications with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.

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

- 7.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track;
- (b) paved and largely fenced off; and
- (c) currently occupied by the applied use without valid planning permission.

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominately of warehouses and open storage/storage yards, intermixed with residential structures, car services/repairing workshops and vacant land/structures;
- (b) there are scattered residential structures in the vicinity of the Site with the nearest one located to its immediate southwest; and
- (c) except for five warehouses operating with valid planning permissions (No. A/YL-TYST/928, 972, 1004, 1012 and 1060) and three open storage/storage yards, the other warehouses, open storage/storage yards and car services/repairing workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 The planning intention of the “U” zone is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development.
- 8.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (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 within the Site is covered by Short Term Tenancy (STT) No. 2710, while Lots No. 1265, 1270 and 1271, 1266, 1272, 1273, 1275 RP, 1277 S.A and 1277 RP, and 1276 are covered by Short Term Waivers (STWs) No. 3829 to 3833 and 4492 respectively to permit structures erected thereon for the purpose of “Warehouse of storage of sanitary ware, metal ware, machinery and spare parts”.
- (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or 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. Applications for any of the above will be considered by her department 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 her department.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

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

- (a) There are no substantiated environmental complaints concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding area.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development.
- (b) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TYST/941.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/941 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the application.
- (b) The applicant should be reminded of the detailed comments on the submitted FSIs proposal and general comments at **Appendix V**. Revised layout plans incorporated with the proposed FSIs should be submitted to his department for approval.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Water Supply

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water mains shall be provided to his department. The applicant should also be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the YLS Study. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Residential – Zone 2 (Subsidised Sale Flats with Commercial)” (“R2(SSF)c”), partly within an area shown as ‘Road’ and partly outside the Development Area.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.10 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Site falls within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of

Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.

District Officer's Comments

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 25.5.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objected to the application on the grounds that the applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix IV-1**). Another individual raised concerns on the revocation history of the Site and that the applied use could cause fire safety and environmental impacts (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials, food provisions, vehicles, vehicle parts and electronic products for a period of 3 years at a site mainly zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site partly falls within an area zoned “R2(SSF)c” and partly within an area shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding areas comprise predominantly warehouses and open storage/storage yards (**Plan A-2**). Although there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. It is anticipated that the applied use would not generate significant traffic, environmental and drainage impacts to the surrounding areas. Furthermore, relevant approval conditions are

recommended in paragraph 12.2 to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.

- 11.4 The Site involves five previous applications for various temporary warehouse uses. The last application (No. A/YL-TYST/941) was submitted by the same applicant as the current application for similar warehouse use which was approved with conditions for a period of 3 years by the Committee on 1.2.2019. Subsequently, the planning permission was revoked on 1.5.2021 due to non-compliance with time-limited approval conditions on submission and implementation of FSIs proposal. The current application is submitted by the same applicant with slightly different site layout. Nevertheless, the applicant has submitted FSIs proposal for the current application (**Appendix Ia**) and D of FS has no in-principle objection to the application. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to further application.
- 11.5 Given that five previous approvals for similar warehouse uses have been granted to the Site and 88 similar applications have been approved within/straddling the subject “U” zone since 2015, approval of the current application is generally in line with the Committee’s previous decisions. While there were three similar applications rejected by the Committee on the grounds of repeated non-compliances with approval conditions, sympathetic consideration may be given to the current application for the reasons in paragraph 11.4 above.
- 11.6 There are two public comments received on the application during the statutory publication period raising objection and concern as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction materials, food provisions, vehicles, vehicle parts and electronic products could be tolerated for a period of 3 years.
- 12.2 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 9.7.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 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 medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site 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 9.10.2021;
- (g) the submission of a revised 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 9.10.2021;
- (h) in relation to (g) above, the implementation of the 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 9.1.2022;
- (i) 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
- (j) if any of the above planning conditions (f), (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 at **Appendix V**.

- 12.3 Alternately, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

Two previous planning permissions granted on the Site by the Town Planning Board were revoked due to non-compliance with the approval conditions.

Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with annex and plans received on 18.5.2021
Appendix Ia	FI received on 25.6.2021
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar Applications within/straddling the “U” zone on the OZP since 2015
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan
Drawing A-3	Proposed Tree Preservation and Landscape Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2021**