

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-TYST/1108 AND 1109

- Applicant** : Mr. CHEUNG Fook Wo represented by Metro Planning and Development Company Limited
- Sites** : Lots 990 (Part), 991 (Part), 994 (Application No. A/YL-TYST/1108)
(Part), 1024 (Part), 1025 and 1026
(Part) in D.D. 119 and Adjoining
Government Land (GL), Pak Sha
Tsuen, Yuen Long, New Territories
- Lot 1020 (Part) in D.D. 119, Pak Sha (Application No. A/YL-TYST/1109)
Tsuen, Yuen Long, New Territories
- Site Areas** : 687 m² (about) (including GL of (Application No. A/YL-TYST/1108)
about 169 m² or 25%)
- 330 m² (about) (Application No. A/YL-TYST/1109)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No.
S/YL-TYST/14 currently in force
- Draft TYST OZP No. S/YL-TYST/13 at the time of submission
- Zoning** : “Undetermined” (“U”)
[No change to the “U” zone]
- Applications** : Temporary Warehouse for Storage (Application No. A/YL-TYST/1108)
of Stage Equipment for a Period of 3
Years
- Proposed Temporary Warehouse for (Application No. A/YL-TYST/1109)
Storage of Stage Equipment for a
Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application sites (the Sites) for temporary warehouse for storage of stage equipment (for application No. A/YL-TYST/1108) and proposed temporary warehouse for storage of stage equipment (for application No. A/YL-TYST/1109) each for a period of 3 years (**Plan A-1a**). According to the covering Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require planning permission from

the Town Planning Board (the Board). For A/YL-TYST/1108, the Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4a**). For A/YL-TYST/1109, the Site is currently vacant (**Plans A-2 and A-4b**).

- 1.2 The Sites involve three previous applications for various temporary open storage use (**Plan A-1b**). The last application (No. A/YL-TYST/640), covering the whole Site of A/YL-TYST/1108 and part of the Site of A/YL-TYST/1109, for temporary open storage of construction machinery and construction materials was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 21.6.2013. Compared with the last application, the current applications are submitted by the same applicant for a different use on smaller sites with different site layouts and development parameters.
- 1.3 According to the applicant, the proposals are for storage of stage equipment (including stage furniture, lighting equipment and metal racks). No medium or heavy goods vehicle, including container tractors/trailers, are allowed to enter/park at the Sites. No repairing, dismantling, cleaning or other workshop activities will be carried out at the Sites. Plans showing the vehicular access leading to the Sites, site layout and drainage proposal for the two applications submitted by the applicant are at **Drawings A-1a to A-3b** respectively.
- 1.4 The major development parameters of the current applications are summarised as follows:

| Major Development Parameters | Application No. A/YL-TYST/1108 | Application No. A/YL-TYST/1109 |
|-------------------------------------|--|---|
| Applied/Proposed Use | Temporary Warehouse for Storage of Stage Equipment for a Period of 3 Years | Proposed Temporary Warehouse for Storage of Stage Equipment for a Period of 3 Years |
| Site Area | About 687 m ² (including GL of about 169 m ²) | About 330 m ² |
| Total Floor Area (non-domestic) | About 954 m ² | Not exceeding 310 m ² |
| No. and Height of Structures | 2 • for warehouse, site office and toilet (7m, 1-2 storey(s)) | 1 • for warehouse (7m, 1 storey) |
| No. of Parking Spaces | Nil | |
| No. of Loading/Unloading Spaces | 1 each (7m x 3.5m) (for light goods vehicles) | |
| Operation Hours | 9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays | |

- 1.5 In support of the applications, the applicant has submitted the following documents:
 - (a) Application Form with annexes and plans received on 5.8.2021 (application No. A/YL-TYST/1108) (**Appendix I**)

- (b) Application Form with annexes and plans received on 5.8.2021 (application No. A/YL-TYST/1109) **(Appendix Ia)**
- (c) Supplementary Information received on 10.8.2021 (application No. A/YL-TYST/1108) **(Appendix Ib)**
- (d) Supplementary Information received on 10.8.2021 (application No. A/YL-TYST/1109) **(Appendix Ic)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in the Application Forms and Supplementary Information (**Appendices I, Ia and Ic**). They can be summarised as follows:

- (a) The temporary proposals 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 Sites and their planning circumstances are similar to that of the Sites. The proposals are compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in TYST.
- (b) There will be minimal environmental, drainage or traffic impacts arising from the proposed/applied use.

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

The applicant is not a “current land owner” 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 notices and sending the notices 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 TPB PG-No. 31A are not applicable.

4. Background

The Sites are currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Sites involve three previous applications (No. A/YL-TYST/561, 592 and 640) for temporary open storage of construction machinery and construction materials covering different extents of the Sites and submitted by the same applicant as the current applications. All three applications were approved with conditions each for a period of 3 years by the Committee between 2012 and 2013 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, all three planning permissions were revoked between 2012 and 2013 due to non-compliance with time-limited approval

conditions. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

- 5.2 Compared with the last application (No. A/YL-TYST/640), the current applications are submitted by the same applicant for a different use on smaller sites with different site layouts and development parameters.

6. Similar Applications

- 6.1 A total of 97 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the “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 97 similar applications, 93 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 29 of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications (No. A/YL-TYST/922, 926, 943 and 1082) were rejected by the Committee between 2018 and 2021 on the grounds that approval of application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, application No. A/YL-TYST/1112 for renewal of planning approval for temporary storage of advertisement material with ancillary workshop for a period of 3 years within the same “U” zone will also be considered at this meeting (**Plan A-1a**).

7. Planning Intention

- 7.1 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. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 7.2 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.

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

- 8.1 The Sites are:
- (a) accessible via a local track leading from Kung Um Road to its east (**Drawings A-1a and A-1b, Plan A-3**);

- (b) paved and occupied by the applied use without valid planning permission (for application No. A/YL-TYST/1108) (**Plan A-4a**); and
- (c) partly paved and vacant (for application No. A/YL-TYST/1109) (**Plan A-4b**).

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

- (a) comprise predominately of warehouses and open storage/storage yards with scattered residential structures, vehicle repair workshops, parking of vehicles, an orchard and vacant land/structures;
- (b) there are residential structures in the vicinity of the Sites with the nearest ones located to the immediate north (for application No. A/YL-TYST/1109) and about 25m to the east (for application No. A/YL-TYST/1108); and
- (c) except for five warehouses and/or open storage with/without ancillary use operating with valid planning permissions (No. A/YL-TYST/966, 1021, 1057, 1088 and 1106), as well as nine other warehouses, the remaining warehouses, open storage/storage yards, vehicle repair workshops and parking of vehicles in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the applications, 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 Sites comprise 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. No permission is given for occupation of GL (about 169 m² subject to verification) included in the Site (for application No. A/YL-TYST/1108). Any occupation of GL without Government's prior approval is not allowed.
- (b) Should planning approval be given to the applications, the lot owner(s) will need to apply to her office to permit 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. Furthermore, the applicant has to either exclude the GL from the Site (for application No. A/YL-TYST/1108) or apply for a formal approval prior to the actual occupation of the GL. 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 Sites from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should 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 Sites 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 to prevent surface water running from the Sites to the nearby public roads and drains.
- (b) The access road connecting the Sites with Kung Um Road is not and will not be maintained by his department. His department shall not be responsible for the maintenance of any access connecting the Sites and Kung Um Road.

Environment

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

Should the planning applications 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.

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 developments from the public drainage point of view and no adverse comment on the submitted drainage proposals.
- (b) Should the Board consider that the applications are acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposals to the satisfaction of the Director of Drainage Services or of the Board should be stipulated. The applicant should also be reminded

of the detailed comments at **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the proposals subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

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 Sites, he is not in a position to offer comments on their suitability for the use proposed in the applications.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Long-Term Development

9.1.8 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 Sites fall within an area zoned “District Open Space” (“DO”).
- (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 applications are for temporary use for a period of 3 years each. 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.

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

- (a) He has no objection to the subject applications.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Sites fall 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

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

His office has not received any comment from the locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 13.8.2021, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The applications are for temporary warehouse for storage of stage equipment (for application No. A/YL-TYST/1108) and proposed temporary warehouse for storage of stage equipment (for application No. A/YL-TYST/1109) at sites zoned “U” on the OZP. The proposed/applied use is generally not in conflict with the planning intention of the “U” zone which is intended for open storage use 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 applications. Whilst the Sites fall within an area zoned “DO” on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the applications and PM(W), CEDD has no objection to the applications. Approval of the applications 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**). While there are residential structures in the vicinity, the proposed/applied use is generally not incompatible with the surrounding uses in the area.
- 11.3 There is no adverse comment on the applications from concerned government departments, including C for T, CE/MN, DSD and DEP. Adverse traffic, drainage and environmental impacts arising from the proposed/applied use are not envisaged. There has been no environmental complaint concerning the Sites received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Sites will be subject to enforcement action by

the Planning Authority. Should the planning applications 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 There are three previous approved applications involving the Sites for different uses and all the planning permissions were revoked between 2012 and 2013. Given that 93 similar applications within/straddling the “U” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decision. There were four similar applications in the subject “U” zone rejected on the grounds that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system. However, such considerations are not entirely applicable to the current applications as the previous revocations at the Sites were related to open storage use, and the current proposals for warehouse use could be considered afresh.
- 11.5 There is no public comment received on the applications during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the applied/proposed use under the two applications could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis each for a period of 3 years until 24.9.2024. The following conditions of approval and advisory clauses for the two applications 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 planning approval period;
- (d) no repairing, dismantling, cleaning or other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) the implementation of the accepted 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 24.3.2022;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all time 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 24.3.2022;
- (h) in relation to (g) above, the implementation of the 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 24.6.2022;
- (i) if any of the above planning conditions (a), (b), (c), (d) 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 conditions (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 at **Appendix IV**.

12.3 There is no strong reason to recommend rejection of the applications.

13. Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the period of which the permissions should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

- Appendix I** Application Form with annexes and plans received on 5.8.2021 (application No. A/YL-TYST/1108)
- Appendix Ia** Application Form with annexes and plans received on 5.8.2021 (application No. A/YL-TYST/1109)
- Appendix Ib** Supplementary Information received on 10.8.2021 (application No. A/YL-TYST/1108)
- Appendix Ic** Supplementary Information received on 10.8.2021 (application No. A/YL-TYST/1109)
- Appendix II** Previous Applications covering the Sites
- Appendix III** Similar Applications within/straddling the “U” Zone on the OZP since 2015

Appendix IV Recommended Advisory Clauses

Drawings A-1a Vehicular Access Plans
and A-1b

Drawing A-2a Site Layout Plans
and A-2b

Drawing A-3a Drainage Proposals
and A-3b

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
SEPTEMBER 2021**