

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1117

- Applicant** : Merito Technical Services Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 1945 RP (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 772 m² (about)
- Lease** : New Grant Lot restricted for private residential purpose only
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Industrial” (“I”)
[restricted to a maximum plot ratio of 3 and maximum building height (BH) of 4 storeys (15m)]
- Application** : Proposed Temporary Industrial Use (Manufacturing of Inert Gases and Fire Suppression Agents, Servicing and Filling of Fire Extinguishers and Compressed Gas Cylinders with Inert Gases and Fire Suppression Agents and Hydraulic Pressure Testing) and Dangerous Goods (DG) Godown (Storage of Inert Gases and Fire Suppression Agents) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary industrial use (manufacturing of inert gases and fire suppression agents, servicing and filling of fire extinguishers and compressed gas cylinders with inert gases and fire suppression agents and hydraulic pressure testing) and DG godown (storage of inert gases and fire suppression agents) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “I” zone, while the major work procedures of the proposed development could be regarded as ‘Industrial Use (not elsewhere specified)’ which is always permitted, ‘Dangerous Goods Godown’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by parking of vehicles which is permitted under “I” zone (**Plans A-2 and A-4**).
- 1.2 The Site involves one previous application (No. A/YL-TYST/750) involving a larger site area for the same use (albeit on a permanent basis) as the current application (**Plan A-1**), which was approved with conditions by the Rural and New

Town Planning Committee (the Committee) of the Board on 4.3.2016. Subsequently, application No. A/YL-TYST/750-1 for extension of time (EOT) for commencement of the approved development under application No. A/YL-TYST/750 was approved in 2020. The proposal had yet to be implemented and the amended permission is valid until 4.3.2024. The current application is submitted by a different applicant. Compared with the last application, although it is applied for the same use (albeit on a temporary basis of three years), the site area has been reduced and the development parameters and site layout have been revised.

- 1.3 According to the applicant, the DG godown is for storage of compressed gas cylinders with inert gases and fire suppression agents (classified as Category 2 DG and subject to the provisions of the Dangerous Goods Ordinance) for fire extinguishers. After the servicing and filling of the fire extinguishers and compressed gas cylinder, hydraulic pressure testing of the pressurised fire extinguishers and cylinders will be carried out to ensure that no leakage occurs. The filled fire extinguishers and cylinders will be temporarily stored at the DG godown within the Site before delivery. No medium or heavy goods vehicles and container tractors/trailers are allowed to enter the Site. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2** 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/750 (a)	Current Application No. A/YL-TYST/1117 (b)	Difference (b)-(a)
Proposed Use(s)	Industrial Use (Manufacturing of Inert Gases and Fire Suppression Agents, Servicing and Filling of Fire Extinguishers and Compressed Gas Cylinders with Inert Gases and Fire Suppression Agents and Hydraulic Pressure Testing) and DG Godown (Storage of Inert Gases and Fire Suppression Agents)	Temporary Industrial Use (Manufacturing of Inert Gases and Fire Suppression Agents, Servicing and Filling of Fire Extinguishers and Compressed Gas Cylinders with Inert Gases and Fire Suppression Agents and Hydraulic Pressure Testing) and DG Godown (Storage of Inert Gases and Fire Suppression Agents) for a Period of 3 Years	Change to Temporary Use for a Period of 3 Years
Site Area	About 1,120 m ²	About 772 m ²	-348 m ² (-31%)
Total Floor Area (non-domestic)	813.4 m ²	About 160 m ²	-653.4 m ² (-80%)
No. and Height of Structures	1 • for DG manufacturing and godown (7.5 m, 1 storey)	1 • for DG manufacturing and godown (7.6m, 1 storey)	--
No. of Parking Space	Nil		--
No. of Loading/unloading Space	1 (for light goods vehicle) (7m x 3.5m)		--

Operation Hours	8:00 a.m. to 8:00 p.m., with no operation on Sundays and Public Holidays	--
-----------------	--	----

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

- (a) Application Form with executive summary and plans received on 3.9.2021 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 7.9.2021 **(Appendix Ib)**
- (d) Supplementary Information received on 9.9.2021 **(Appendix Ic)**
- (e) Further Information (FI) received on 14.9.2021 **(Appendix Id)**
[accepted but not exempted from publication and recounting requirement]
- (f) FI received on 3.11.2021 **(Appendix Ie)**
[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 Supplementary Planning Statement and FIs (**Appendices Ia, Id and Ie**). They can be summarised as follows:

- (a) The Site is subject to a planning permission (No. A/YL-TYST/750-1) for the same use albeit for a permanent development. As the landowner is unable to finance the permanent development at this juncture, he has since let out the Site to the current applicant, whose operation is currently based at 69 Tong Yan San Tsuen Road (**Plan A-1**) but will soon be affected by Stage 2 of the Yuen Long South Development. As there are changes in the proposed layout, development parameters and nature of the proposed use (temporary instead of permanent proposal), a fresh application is therefore submitted.
- (b) The proposed use is in line with the planning intention of the “I” zone. A similar planning application (No. A/YL-TYST/49)¹ had been approved by the Board in the vicinity of the Site and its planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment.
- (c) There will be minimal environmental, traffic and drainage impacts arising from the proposal. The submitted quantitative risk assessment (QRA) (**Appendix Id**) concludes that the individual and societal risk due to the proposed development is in the acceptable region and the relevant criteria in the Hong Kong Planning Standards and Guidelines can be satisfied. Relevant licence(s) will be applied for should the application be approved by the Board.

¹ The application mentioned by the applicant fell within an area zoned “Industrial (Group D)” on the then TYST OZP.

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 notice and sending the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Application**

- 5.1 The Site involves one previous application (No. A/YL-TYST/750) for the same use (albeit on a permanent basis) covering a larger site, which was approved by the Committee in 2016 mainly on the considerations that the development was not in conflict with the planning intention of the “I” zone; not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. Subsequently, application No. A/YL-TYST/750-1 for EOT for commencement of the approved development under application No. A/YL-TYST/750 was approved by the Director of Planning under the delegated authority of the Board in 2020. The amended permission is valid until 4.3.2024. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.
- 5.2 Compared with the last application, the current application is submitted by a different applicant for the same use (albeit on a temporary basis of three years) at a smaller site with different development parameters and site layout.

6. **Similar Application**

There is no similar application within the subject “I” zone.

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

7.1 The Site is:

- (a) abutting Tong Yan San Tsuen Road to its east (**Plan A-2**);
- (b) paved and largely fenced-off; and
- (c) currently occupied by parking of vehicles.

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

- (a) comprise predominantly of industrial operations, open storage/storage yards, car parks, a workshop and a residence within the subject “I” zone;

- (b) to the east of Tong Yan San Tsuen Road is a mixture of low-rise residential developments, warehouses, a church, a petrol cum liquefied petroleum gas (LPG) filling station, car park, storage yard, restaurant, social welfare facility and plant nursery in the adjoining “Residential (Group B)1” (“R(B)1”) zone;
- (c) to the north and further northwest are another petrol cum LPG filling station and Tong Yan San Tsuen Playground in the adjoining “Other Specified Uses” annotated “Petrol Filling Station” zone and “Open Space” zone respectively;
- (d) there are residential developments in the vicinity of the Site with the nearest one located about 50m to its southeast; and
- (e) the open storage/storage yards in the vicinity, as well as the car park and warehouses in the adjacent “R(B)1” zone are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “I” zone is primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries, office related to industrial use, and selected uses akin to industrial production and would not compromise building and fire safety are also always permitted in this zone.

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 the remaining portion of Lot No. 1945 RP in D.D.121 (the Lot) which is held under New Grant No. 1206 for the purpose of private residential purpose only. In addition, the Lot is also subject to a maximum BH of not exceeding 25ft from the mean formation level and a maximum built over area of the Lot for not more than 1,722 ft² (i.e. 160 m²). It is noted that the Site is the subject of previous approved scheme under planning application No. A/YL-TYST/750 for permanent basis, the lot owner of the Lot has applied for a land exchange for the same purposes.
- (b) According to the Land Registry record, the Lot is not owned by the applicant. The applicant is required to seek the lot owner’s consent to implement the scheme.
- (c) Noting the Lot is for private residential purpose only, the proposed use will be in breach of the lease conditions governing the Lot. Should the planning application be approved, the lot owner is

required to apply for a temporary waiver to implement the proposed use. However, there is no guarantee that such application will be approved by her department. Such application will be dealt by her department acting in its capacity as the landlord at its absolute discretion, and if such application is approved, it will be subject to such terms and conditions, including but not limited to the payment of waiver fee and administrative fee as may be imposed. Nothing the application is temporary in nature, should the short term waiver be granted afterwards, the applicant should ensure timely renewal of the aforesaid application to ensure validity of the waiver.

Traffic

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

- (a) She has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space should be provided within the Site. In addition, no vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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 Site to nearby public roads and drains.
- (b) If the proposed run-in/out on Tong Yan San Tsuen Road is approved by Transport Department, the applicant should construct the run-in/out according to the latest version of HyD Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.

Environment

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

Should the planning application be approved, the applicant should be advised to follow relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

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 from the public drainage point of view. The applicant should be reminded

of the detailed comments on the submitted drainage proposal at **Appendix IV**.

- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal and implementation and maintenance of the agreed drainage proposal 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 proposal subject to water supplies for firefighting and fire service installations being provided to his satisfaction. Should the application be approved, the applicant should be reminded of the detailed comments at **Appendix IV**.
- (b) No relevant application for DG licence pertaining to the Site has been processed/approved to date.

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 IV**.

District Officer's Comments

9.1.8 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 application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (e) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 10.9.2021 and 24.9.2021, the application and FI were published for public inspection. During the statutory public inspection periods, two public comments (**Appendices III-1**

and III-2) from individuals were received objecting to the application mainly on the grounds that the proposed use will generate adverse traffic, environmental and fire safety impacts on the surrounding area, with one individual further suggesting that the proposed use should be relocated elsewhere with a view to converting the Site for car parking use (**Appendix III-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary industrial use (manufacturing of inert gases and fire suppression agents, servicing and filling of fire extinguishers and compressed gas cylinders with inert gases and fire suppression agents and hydraulic pressure testing) and DG godown (storage of inert gases and fire suppression agents) for a period of 3 years at the Site zoned “I” on the OZP. While the major work procedures of the proposed development could be regarded as ‘Industrial Use (not elsewhere specified)’, which is always permitted in the “I” zone, ‘Dangerous Goods Godown’ requires planning permission from the Board. The proposed use, which largely involves manufacturing, servicing, filling, testing and temporary storage of fire extinguishers, is generally not in conflict with the planning intention of the “I” zone which is intended for general industrial uses.
- 11.2 The surrounding area comprises predominantly industrial operations, warehouses, open storage/storage yards and parking of vehicles (**Plan A-2**). Although there are residential developments in the vicinity, the proposed use is generally not incompatible with the surrounding uses within the subject “I” zone.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Regarding the potential safety risks associated with the proposed development, the applicant has submitted a QRA to demonstrate that the individual and societal risk due to the proposed development is within acceptable level and DEMS has no adverse comment on the application. Furthermore, relevant approval conditions are recommended in paragraph 12.2 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 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 in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that a previous approval for the same use (albeit on a permanent basis) as the current application has been granted to the Site and the scale of the current proposal has been reduced, approval of the current application is generally in line with the Committee’s previous decision.
- 11.5 There are two public comments objecting to the application as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 as summarised in paragraph 10, the Planning Department has no objection to the application.
- 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 12.11.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 12.5.2022;
- (d) in relation to (c) above, the implementation of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 12.8.2022;
- (e) the submission of a revised 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 12.5.2022;
- (f) in relation to (e) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.8.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a 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 12.5.2022;
- (i) in relation to (h) 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 12.8.2022;
- (j) if any of the above planning conditions (a), (b) or (g) 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

- (k) if any of the above planning conditions (c), (d), (e), (f), (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.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

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

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 executive summary and plans received on 3.9.2021
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 7.9.2021
Appendix Ic	Supplementary Information received on 9.9.2021
Appendix Id	FI received on 14.9.2021
Appendix Ie	FI received on 3.11.2021
Appendix II	Previous Application covering the Site
Appendices III-1 and III-2	Public Comments received during the Statutory Publication Periods
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos