

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1118

- Applicant** : Forest Development and Construction Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 2722 RP (Part), 2727 (Part), 2728, 2729 (Part), 2730 (Part), 2731 (Part) and 2735 (Part) in D.D. 120 and Lot 1678 RP (Part) in D.D. 121, Yuen Long, New Territories
- Site Area** : 3,500 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Residential (Group A)3” (“R(A)3”) (about 72.5%); and
[restricted to a maximum plot ratio of 7 and maximum building height of 160mPD]
area shown as ‘Road’ (about 27.5%)
- Application** : Temporary Warehouse for Storage of Construction Materials and Electronic Goods 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 and electronic goods for a period of 3 years (**Plan A-1a**). The Site mainly falls within an area zoned “R(A)3” (about 72.5%) and partly within an area shown as ‘Road’ (about 27.5%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “R(A)” zone, according to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The covering Notes of the OZP also states that all uses or developments within areas shown as ‘Road’ require planning permission from 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 ten previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/925) for temporary open storage of

building and recycling materials, construction machinery and used electrical/electronic appliances with ancillary packaging activities was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 16.11.2018. All the time-limited approval conditions have been complied with and the permission is valid until 16.11.2021. Compared with the last application, the current application is submitted by a different applicant for a different use at a smaller site with different site layout and development parameters.

- 1.3 According to the applicant, the applied use is for storage of construction materials (including pvc pipe, tiles and sanitary wares) and electronic goods (including tablets, mobile phones and computers). No workshop activity and open storage use will be carried out at the Site. Plans showing the vehicular access leading to the Site, site layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** 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/925 (a)	Current Application No. A/YL-TYST/1118 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Building and Recycling Materials, Construction Machinery and Used Electrical/Electronic Appliances with Ancillary Packaging Activities for a Period of 3 Years	Temporary Warehouse for Storage of Construction Materials and Electronic Goods for a Period of 3 Years	Change of Use and Stored Items
Site Area	About 18,050 m ²	About 3,500 m ²	-14,550 m ² (-80.6%)
Total Floor Area (Non-domestic)	About 5,684 m ²	About 2,250 m ²	-3,434 m ² (-60.4%)
No. and Height of Structures	25 • for storage, ancillary office and packaging activities (3m-10m, 1-2 storey(s))	8 • for warehouse, site offices, water tank, pump room, toilet, electricity metre room and guard room (3m-11m, 1 storey)	-17 (-68%)
No. of Loading/Unloading Space(s)	10 (for heavy goods vehicle (HGV)/container vehicle) (16m x 3.5m each)	2 (for medium goods vehicle/HGV) (11m x 3m each)	-8 (-80%)
No. of Parking Space(s)	--	--	--
Operation Hours	7:00 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 Hour

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

- (a) Application Form with annex and plans received on 15.9.2021 **(Appendix I)**
- (b) Further Information (FI) received on 5.10.2021 **(Appendix Ia)**
- (c) FI received on 28.10.2021 **(Appendix Ib)**
[(b) and (c) 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 eight previous planning permissions since 2003. Due to a change in operator, the use and stored items have changed, hence the need for the current application. 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).
- (b) 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 TYST.
- (c) 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” 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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves eight approved previous applications (No. A/YL-TYST/200, 268, 374, 418, 547, 607, 757 and 925) and two rejected previous applications (No. A/YL-TYST/231 and 239) for various temporary uses covering different extents

of the Site¹. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

Approved Applications (8 Cases)

- 5.2 Applications No. A/YL-TYST/200, 268, 374, 418, 547, 607, 757 and 925 for various temporary open storage with or without other uses were approved with conditions by the Committee between 2003 and 2018 each for a period of 1 or 3 years. The applications were approved mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13C (or its later versions); generally not incompatible with the surrounding areas; and departmental concerns could be addressed by imposing approval conditions. However, the planning permission for application No. A/YL-TYST/418 was subsequently revoked in 2011 due to non-compliance with approval conditions.

Rejected Applications (2 Cases)

- 5.3 Applications No. A/YL-TYST/231 and 239 for temporary open storage of building/recycling materials and construction machinery each for a period of 3 years were rejected by the Board on review and by the Committee respectively in 2004 mainly on the considerations that the applications were not in line with the then TPB PG-No. 13C in that the developments were incompatible with the nearby residential use; and there was insufficient information to demonstrate no adverse environmental, drainage and visual impacts (the latter two for application No. A/YL-TYST/239 only) on the surrounding areas.
- 5.4 Compared with the last application (No. A/YL-TYST/925), the current application is submitted by a different applicant for a different use at a smaller site with different site layout and development parameters.

6. Similar Applications

- 6.1 There are three similar applications (No. A/YL-TYST/875, 957 and 1032) for various temporary warehouse use with/without other uses straddling the subject “R(A)3” zone considered by the Committee since 2015². Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.
- 6.2 All three applications were approved mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for two of them were subsequently revoked due to non-compliance with approval conditions.

¹ All 10 application sites were zoned “Undetermined” (“U”) on previous versions of the OZPs at the time of consideration by the Committee/the Board.

² The former two application sites were zoned “U” on previous versions of the OZPs at the time of consideration by the Committee.

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 (**Plans A-2 to A-4b**).

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

- (a) comprise predominately open storage/storage yards with scattered residential structures, warehouses, workshops, logistics centre, used car dealer shop and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 55m to the east of the Site;
- (c) to its west is a nullah flanked by Lam Tai East Road and Lam Tai West Road;
- (d) to the east, further east and west of the Site are areas zoned “Open Space”, “Village Type Development” and “R(A)3” respectively on the OZP; and
- (e) except for five open storage/storage yards with/without ancillary uses operating with valid planning permissions (No. A/YL-TYST/925, 935, 1008, 1016 and 1093), the other open storage/storage yards, warehouses, logistics centre and used car dealer shop in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(A)” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and public comment, 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 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 Site is covered by several Short Term Waivers (STWs). For details, please refer to **Appendix V**.
- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to her office for modification of the STW 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(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium 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/run-in/out 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. An application to relevant government departments should be made to form new run-in/out, if any.

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 the nearby public roads and drains.
- (b) The access road connecting the Site 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 Site and Kung Um Road.

Environment

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

- (a) She does not support the application as there are residential uses in the vicinity (with the nearest one located about 55m to its east) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There are no substantiated environmental complaints concerning the Site received in the past three years.
- (c) 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 Aspects of Temporary Uses and Open Storage Use” (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 development.
- (b) Based on the drainage proposal enclosed in the application and the FI (**Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/925.
- (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/925 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 proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, 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 V**.

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**.

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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls within an area mainly zoned “Special Residential - Zone 1 – Public Rental Housing (with Commercial)” and partially within an area shown as ‘Road’.
- (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.

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

- (a) He has no objection to the application for temporary use for 16 months.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in Q3 2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by Q1 2022 and Q2 2022 respectively. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.

- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

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 comments from the locals.

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

- (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 24.9.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual raising concerns that the applied use would hinder the development plan for the area (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials and electronic goods for a period of three years at the Site mainly zoned “R(A)3” and partly shown as ‘Road’ on the OZP. The planning intention of the “R(A)” zone is primarily for high-density residential developments. Although the applied use is not in line with the aforesaid planning intention, CE/CID, PlanD does not raise objection to the application regarding implementation of YLS Development. Although PM(W), CEDD indicates no objection to application for temporary use for 16 months, it is noted that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area. Should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of YLS Development – Stage 1 and no substantial works should be carried out at the Site in view of the project.

- 11.2 The surrounding area comprises predominantly open storage/storage yards (**Plan A-2**). Although there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 55m to its east) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 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 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 eight previous approvals for various temporary storage uses have been granted to the Site and three similar applications straddling the subject “R(A)3” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions. There were two previous planning applications rejected mainly on the grounds that the applicants could not demonstrate that the development would not generate adverse environmental, drainage and/or visual impacts on the surrounding area. In this regard, the applied use is considered compatible with the surrounding area, CE/MN, DSD has no objection in principle to the current application and the environmental concerns could be addressed by way of approval conditions and advisory clauses as stated in paragraph 11.3 above.
- 11.5 There is one public comment raising concerns on the application as summarised in paragraph 10 above. 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 comment summarised in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction materials and electronic goods 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 12.11.2024. 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 12.2.2022;
- (e) 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;
- (f) in relation to (e) 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;
- (g) if any of the above planning conditions (a), (b) or (c) 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) if any of the above planning conditions (d), (e) or (f) 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 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) the applied use is not in line with the planning intention of the "R(A)" zone which is primarily for high-density residential developments. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding area.

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 15.9.2021
Appendix Ia	FI received on 5.10.2021
Appendix Ib	FI received on 28.10.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications straddling the Subject “R(A)3” Zone on the TYST OZP Since 2015
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-Built Drainage Plan
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
NOVEMBER 2021**