

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1121**

- Applicant** : Mr. Lau Yau Sum represented by Metro Planning & Development Company Limited
- Site** : Lots 1277 S.B (Part), 1279 S.B ss.1 S.A, 1279 S.B ss.1 S.B (Part) and 1281 in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,900 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Residential (Group C)” (“R(C)”) (about 98.5%); and  
*[Restricted to a maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]*  
“Undetermined” (about 1.5%)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) 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 place of recreation, sports or culture (indoor recreation centre) for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “R(C)” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a warehouse for storage of construction materials without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves four previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/914) for proposed temporary eating place and shop and services use was rejected on review by the Board on 28.12.2018. Compared with the last application, the current application is submitted by the same applicant for a different use at a larger site with different development parameters and site layout.

- 1.3 According to the applicant, the proposal will provide four badminton courts within four air-conditioned structures to serve nearby residents. The subject site will be rented out to a badminton club and will be commercially operated in a professional manner. A 9m headroom is proposed to meet the standards for a badminton court. A toilet and changing room will also be provided. Only private cars are allowed to access/park at the Site. The applicant also undertakes to cease the existing warehouse operation and demolish the existing structures at the Site. Plans showing the vehicular access leading to the Site, site layout and proposed 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 rejected application are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Rejected Application No. A/YL-TYST/914 (a)</b>	<b>Current Application No. A/YL-TYST/1121 (b)</b>	<b>Difference (b)-(a)</b>
Proposed Use	Proposed Temporary Eating Place and Shop and Services (Grocery Store) for a Period of 3 Years	Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) for a Period of 3 Years	Change in Use
Site Area	About 1,630 m <sup>2</sup>	About 1,900 m <sup>2</sup>	+270 m <sup>2</sup> (+16.6%)
Total Floor Area (non-domestic)	About 1,151 m <sup>2</sup>	About 960 m <sup>2</sup>	-191 m <sup>2</sup> (-16.6%)
No. and Height of Structures	2 • for eating place, grocery store and toilet (6-6.5m, 1 storey)	5 • for indoor recreation centre, toilet and changing room (3-9m, 1 storey)	+3 (+150%)
No. of Loading/ Unloading Space(s)	1 (for light goods vehicle) (7m x 3.5m)	--	-1 (-100%)
No. of Parking Space(s)	2 (for private car) (2.5m x 5m each)	4 (for private car) (2.5m x 5m each)	+2 (+100%)
Operation Hours	8:00 a.m. to 8:00 p.m. daily	9:00 a.m. to 5:00 p.m. daily	Shorter operation hours

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

- (a) Application Form with annexes and plans received on 28.9.2021 **(Appendix I)**
- (b) Further Information (FI) received on 7.10.2021 **(Appendix Ia)**
- (c) FI received on 20.10.2021 **(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 and FI (**Appendices I and Ia**). They can be summarised as follows:

- (a) The proposal will provide a recreation outlet for the nearby residents and will benefit the community. The proposal is in line with the planning intention and a similar proposal has been approved within the same “R(C)” zone. The height of the proposal is reasonable for badminton games. The nature, form and layout of the proposal is compatible with the surrounding environment.
- (b) There will be minimal traffic and environmental 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 would be subject to planning enforcement action, depending on sufficient evidence of unauthorised development under the Town Planning Ordinance.

## 5. **Previous Applications**

- 5.1 The Site involves two approved previous applications (No. A/YL-TYST/577 and 738) and two rejected previous applications (No. A/YL-TYST/524 and 914) for various temporary uses covering smaller 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**.

### *Approved Applications (2 cases)*

- 5.2 Applications No. A/YL-TYST/577 and 738 (the latter was submitted by the same applicant as the current application) for proposed temporary eating place and shop (grocery store) were approved with conditions each for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board in 2012 and 2015 respectively, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the temporary proposals would not jeopardise the planning intention of the “R(C)” zone; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, both planning permissions were revoked in 2013 and 2016 respectively due to non-compliance with time-limited approval conditions on submission

and/or implementation of drainage, landscape and/or fire service installations (FSIs) proposals.

***Rejected Applications (2 cases)***

- 5.3 Applications No. A/YL-TYST/524 (for temporary warehouse for storage of recycling materials for a period of 2 years) and 914 (for proposed temporary eating place and shop and services (grocery store) for a period of 3 years) submitted by the same applicant as the current application were both rejected by the Board on review in 2011 and 2018 respectively. The former application was rejected on the grounds that the development would generate adverse environmental impact on the surrounding area and the proposed warehouse use was not in line with the planning intention. The latter application was rejected on the grounds that the development would generate adverse drainage impact on the surrounding area and 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.
- 5.4 Compared with the last application (No. A/YL-TYST/914), the current application is submitted by the same applicant for a different use at a larger site with different development parameters and site layout.

**6. Similar Application**

There is one similar application for proposed temporary place of recreation, sports or culture (indoor recreation centre) (No. A/YL-TYST/1103) within the subject “R(C)” zone, which was approved with conditions for a temporary period of 3 years by the Committee on 27.8.2021 mainly on the considerations that the proposal would not frustrate the long-term development of the area; the proposal was not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. Details of the application is summarised at **Appendix III** and its location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track;
- (b) paved and fenced off; and
- (c) currently occupied by a warehouse for storage of construction materials without valid planning permission.

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

- (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, parking of vehicles and vacant land/structures;

- (b) there are residential structures in the vicinity of the Site with the nearest one located about 15m to its northeast;
- (c) to the west and south of the Site is an area zoned “U” on the OZP; and
- (d) except for two warehouses in the nearby “U” zone operating with valid planning permissions (No. A/YL-TYST/1097 and 1100), the other warehouses, open storage/storage yards and parking of vehicles 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(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

## **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 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) Within the Site, Lots No. 1279 S.B ss.1 S.A & 1281 in D.D. 119 and Lot No. 1279 S.B ss.1 S.B in D.D. 119 are covered by Short Term Waivers (STWs) No. 3656 and 3663 respectively to permit structures erected thereon for the purpose of “Eating Place and Shop (Grocery Store)”.
- (c) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot 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/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.

#### 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) 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):

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 from the public drainage point of view and no adverse comment on the submitted drainage proposal.

- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal 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 V**.

### **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 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 (RODP) of YLS promulgated in May 2020, a minor portion of the Site falls within an area shown as ‘Road’, with the remainder of the Site falling outside the Development Area of YLS.
- (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.
- (b) Based on the preliminary project boundary of the proposed YLS Development, a minor portion of 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**

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

Her office has not received any comment from the locals on the application.

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

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

**10. Public Comments Received During the Statutory Publication Period**

On 5.10.2021, 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 objects to the application on the grounds that the proposal lacks information and it will affect residents in the vicinity (**Appendix IV-1**). The other individual mainly questions the scale of the proposed structures, which is incompatible with the intended uses of the “R(C)” zone (**Appendix IV-2**).

**11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary place of recreation, sports or culture (indoor recreation centre) for a period of 3 years at the Site mainly zoned “R(C)” on the OZP. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments. Although the proposed use is not entirely in line with the aforesaid planning intention, the proposal is intended to serve the recreational needs of nearby residents and there is no known development programme/proposal for residential use at the Site. While a minor portion of the



Site falls within an area shown as ‘Road’ on the Revised RODP of the YLS Development, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the application. As such, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.

- 11.2 The proposed indoor recreation centre would be carried out within four 9m-high air-conditioned structures, in which the high headroom is to comply with the relevant operational standards under the Hong Kong Planning Standards and Guidelines (i.e. the 9m headroom and 13.4m x 6.1m dimension for badminton court). Given the nature and scale of the proposal, the proposed indoor recreation centre is considered not entirely incompatible with the intended low-rise, low-density residential uses in the “R(C)” zone, which is subject to a maximum building height of 3 storeys (9m).
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP and CE/MN, DSD. Adverse traffic, environmental and drainage impacts on the surrounding areas are not envisaged. 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, including uses not covered by the current application, will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas, and to note that the planning permission does not condone any other development/use found on Site but not covered by the application.
- 11.4 There is one similar application approved within the subject “R(C)” zone, approval of the current application is generally in line with the Committee’s previous decision. Although the Site is subject to four previous applications, none of which were for proposed place of recreation, sports or culture use and the considerations thereof are thus not relevant to the current application.
- 11.5 There are two public comments objecting to/raising concerns on 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 mentioned in paragraph 10 above, 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 26.11.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) only private cars, 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) 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 26.5.2022;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all time during the planning approval period;
- (d) 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 26.5.2022;
- (e) in relation to (d) 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 26.8.2022;
- (f) if any of the above planning condition (a) 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
- (g) if any of the above planning condition (b), (d) or (e) 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 reason for rejection is suggested for Member's reference:

the proposed development is not in line with the planning intention of the "R(C)" zone, which is primarily for low-rise and low-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.

## **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**

<b>Appendix I</b>	Application Form with annexes and plans received on 28.9.2021
<b>Appendix Ia</b>	FI received on 7.10.2021
<b>Appendix Ib</b>	FI received on 20.10.2021
<b>Appendix II</b>	Previous Applications covering the Application Site
<b>Appendix III</b>	Similar Application within the subject “R(C)” Zone
<b>Appendices IV-1 and IV-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Application
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2021**