

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1126

- Applicant** : Mr. Tang Mo Pun
- Site** : Lots 2428 RP (Part), 2429 S.D (Part), 2704 S.A & S.B (Part), 2705 (Part), 2712 S.A (Part), 2712 S.B (Part), 2713 (Part), 2714 (Part), 2716 RP (Part), 2717 RP (Part) and 2718 RP (Part) in D.D. 120 and Adjoining Government Land (GL), Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 4,008 m² (about) (including GL of about 88 m² or 2.2%)
- 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 87%); and
[restricted to a maximum plot ratio of 7 and maximum building height of 160mPD]

area shown as ‘Road’ (about 13%)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Machinery and Construction Materials with Ancillary Workshop and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage of construction machinery and construction materials with ancillary workshop and office for a period of 3 years (**Plan A-1a**). The Site falls mainly within an area zoned “R(A)3” (about 87%) and partly within an area shown as ‘Road’ (about 13%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “R(A)” zone, according to the covering 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 with valid planning permission under application No. A/YL-TYST/935 (**Plans A-2 to A-4b**).

- 1.2 The Site involves nine previous applications for various temporary uses (**Plan A-1b**). The relevant previous application (No. A/YL-TYST/935) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 18.1.2019. All the time-limited approval conditions of the planning permission had been complied with and the planning permission is valid until 18.1.2022. Compared with application No. A/YL-TYST/935, the current application is submitted by the same applicant for the same use with the same site layout and development parameters.
- 1.3 According to the applicant, the applied use is for storage of construction machinery and construction materials. No heavy goods vehicles, including container trailers/tractors, will enter the Site. The ancillary workshop use will be confined to Structure 1 at the Site (**Drawing A-2**). Plans showing the vehicular access leading to the Site, site layout, as-built drainage plan and fire service installations (FSIs) plan submitted by the applicant are at **Drawings A-1 and A-4** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/935, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/935	Current Application No. A/YL-TYST/1126
Applied Use	Temporary Open Storage of Construction Machinery and Construction Materials with Ancillary Workshop and Office for a Period of 3 Years	
Site Area	About 4,008 m ²	
Total Floor Area (Non-domestic)	About 614 m ²	
No. and Height of Structures	5 • for storage, ancillary offices, workshop and guard house use (3.5m-6.5m, 1 storey)	
No. of Loading/ Unloading Space(s)	1 (for medium goods vehicle) (11m x 3.5m)	
No. of Parking Space(s)	4 (for private car/light goods vehicles) (5m x 2.5m each)	
Operation Hours	9:00 a.m. to 11:00 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 annex and plans received on 8.11.2021 (**Appendix I**)
 - (b) Further Information (FI) received on 18.11.2021 (**Appendix Ia**)
[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 has been the subject of six previous planning permissions for open storage use since 2000. The current proposal is the same as the last application (No. A/YL-TYST/935) and all the approval conditions of the last application had been complied with.
- (b) The temporary use would not jeopardise the long-term planning intention. A number of open storage yards and workshops 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.
- (c) 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). Besides, there is a shortage of land for port back-up purpose in TYST.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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

The applicant is not a “current land owner” 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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

- 4.1 On 27.3.2020, the Board promulgated the revised TPB PG-No.13F. The Site falls within Yuen Long South (YLS) Development Area. The criteria for New Development Areas (NDAs) (including potential development areas) under the revised Guidelines are applicable. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are also relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves eight approved previous applications and one rejected previous application for various temporary uses covering different extents of the Site¹. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1b**.

Rejected Application (1 Case)

- 6.2 Application No. A/YL-TYST/564 for temporary open storage of construction machinery, construction materials and recycled materials (including metal and plastic) with ancillary workshop for a period of 3 years was rejected by the Board on review in 2012 mainly on the considerations that there were potential adverse environmental, drainage and fire safety impacts on the surrounding area; the application did not comply with the then TPB PG-No.13E as the applied use was incompatible with the surrounding residential use; and 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.

Approved Applications (8 Cases)

- 6.3 Applications No. A/YL-TYST/110, 458, 516, 626, 768, 838 and 1014 for various temporary open storage with/without other uses were all approved with conditions by the Committee between 2000 and 2020 each for a period 1 to 3 years, mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13E (or its later version); approval of the application on a temporary basis would not frustrate the long-term development of the area; the proposals were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/YL-TYST/110, 458 and 516 were revoked between 2001 and 2011 respectively due to non-compliance with time-limited approval conditions.
- 6.4 The relevant previous application (No. A/YL-TYST/935) for the same use as the current application was approved with conditions for a period of 3 years by the Committee on 18.1.2019 mainly on similar considerations as those specified in paragraph 6.3 above. All the time-limited approval conditions had been complied with and the planning permission is valid until 18.1.2022.
- 6.5 Compared with the last application (No. A/YL-TYST/935), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Applications

- 7.1 There are seven similar applications for various temporary open storage with/without other uses within/straddling the subject “R(A)3” zone considered by

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

the Committee since 2017. Details of the applications are summarised at **Appendix V** and their locations are shown on **Plan A-1a**.

- 7.2 Out of the seven similar planning applications, six 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 permission for one of them was subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining planning application (No. A/YL-TYST/1058) was rejected by the Committee in 2020 on the grounds that the applied use was not in line with TPB PG-No. 13F in that the applicant could not demonstrate that the continued operation of the applied use would not continue to generate adverse environmental impact on the surrounding areas, amongst others.

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

8.1 The Site is:

- (a) accessible from Shan Ha Road to its west via a local track (**Drawing A-1**);
- (b) largely paved and fenced off; and
- (c) occupied by the applied use with valid planning permission under application No. A/YL-TYST/935 (**Plans A-4a** and **A-4b**).

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

- (a) comprise predominately open storage/storage yards and warehouses with scattered residential structures and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest residence located about 60m to the east of the Site across Lam Tai West Road and Lam Tai East Road within another “R(A)3” zone on the OZP. To the north and further northwest of the Site are areas zoned “Open Space” and “Village Type Development” respectively on the OZP; and
- (c) except for eight open storage/storage yards and/or warehouse operating with valid planning permissions (No. A/YL-TYST/1005, 1014, 1016, 1032, 1036, 1067, 1093 and 1114), the other open storage/storage yards in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. 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.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is covered by several Short Term Waivers (STWs) whereas the GL therein is covered by a Short Term Tenancy (STT). For details, please refer to **Appendix VII**.
- (c) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

Traffic

10.1.2 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 Shan Ha 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.

10.1.3 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 Shan Ha 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 Shan Ha Road.

Environment

10.1.4 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 60m 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 Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

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

- (a) He has no objection in principle to the proposed development.
- (b) Based on the drainage proposal/planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/935.
- (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/935 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

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Building Matters

10.1.7 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 VII**.

Long-Term Development

10.1.8 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 YLS – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls partly within an area zoned as “Residential – Zone 1 (Subsidised Sale Flats with Commercial)” (“R1(SSF)c”), partly within an area zoned as “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” (“RS(1)c”) and partly 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.

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

- (a) He has no objection to the application.
- (b) However, the Site falls within the boundary of YLS Development – Stage 2 Phase 2. The land resumption and clearance

programme of the project is subject to Executive Council's authorisation on land resumption and Finance Committee's funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.

District Officer's Comments

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

His office has not received any comment from the locals.

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

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

11. Public Comments Received During the Statutory Publication Period

On 16.11.2021, 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 applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix VI-1**). Another individual raises concerns on the progress of compliance of the approval conditions for the last application covering the Site and opines that the applied use would hinder the long-term development plans of the area (**Appendix VI-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary open storage of construction machinery and construction materials with ancillary workshop and office for a period of 3 years at a Site mainly zoned "R(A)3" and partly within an area shown as 'Road' on the OZP. The planning intention of the "R(A)" zone is for high-density residential developments. Although the applied use is not in line with the aforesaid planning intention, and the Site falls within YLS Development Stage 2 Phase 2, CE/CID, PlanD does not raise objection 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.
- 12.2 The surrounding area comprises predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding uses.

- 12.3 The Site falls within the YLS Development Area. For applications in NDAs (including potential development areas), the following considerations in the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.4 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and eight previous planning approvals for similar storage use have been granted to the Site; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and the technical concerns of relevant departments could be addressed through the imposition of approval conditions.
- 12.5 The application is also generally in line with TPB PG-No. 34D in that approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/YL-TYST/935 had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 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 60m 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 substantiated environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 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 and to keep the Site clean and tidy at all times in order to minimise any potential environmental impact on the surrounding areas.
- 12.7 Given that eight previous approvals for similar storage uses have been granted to the Site and six similar applications within/straddling the subject “R(A)3” zone

have been approved since 2017, approval of the current application is generally in line with the Committee's previous decisions.

- 12.8 There are two public comments objecting to/ raising concerns on the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.7 are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments summarised in paragraph 11 above, the Planning Department considers that the temporary open storage of construction machinery and construction materials with ancillary workshop and office could be tolerated for a further period of 3 years.
- 13.2 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 and be renewed from 19.1.2022 to 18.1.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 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 heavy goods vehicle, including container tractor/trailer, as defined in the Road Traffic Ordinance, is allowed to enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) all existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 19.4.2022;
- (g) the existing boundary fence on the Site shall be maintained at all times during the planning approval period;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning condition (a), (b), (c), (d), (e), (g) or (h) 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 the above planning condition (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.

[Approval conditions (a) to (g) are the same as those under the permission for application No. A/YL-TYST/935, condition (h) has been updated as per the current application, restriction on workshop activity and stored items have been removed as per the current application, while restriction on queuing and reverse movement of vehicles is now stipulated as an advisory clause.]

Advisory clauses

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

- 13.3 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 to justify 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with annex and plans received on 8.11.2021
Appendix Ia	FI received on 18.11.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Relevant Extracts of TPB PG-No. 34D
Appendix IV	Previous Applications covering the Site

Appendix V Similar Applications within/straddling the Subject “R(A)3” Zone on the OZP Since 2017

Appendices VI-1 to VI-2 Public Comments received during the Statutory Publication Period

Appendix VII Recommended Advisory Clauses

Drawing A-1 Vehicular Access Plan

Drawing A-2 Site Layout Plan

Drawing A-3 As-built Drainage Plan

Drawing A-4 FSIs 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
DECEMBER 2021**