

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1128

- Applicant** : Hang Sing Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1433 S.A (Part), 1433 S.B, 1433 S.C (Part), 1433 S.D (Part), 1433 RP (Part), 1434 RP (Part), 1438 S.A RP (Part), 1438 S.B RP (Part), 1438 S.D (Part), 1438 S.E (Part), 1438 S.F, 1438 S.G, 1438 S.H (Part) and 1438 RP (Part) in D.D.119 and Lot 1658 S.C (Part) in D.D. 121, Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,235.9 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** : “Village Type Development(1)” (“V(1)”) (about 63.2%);
[Restricted to a maximum building height of 3 storeys (8.23m)]

“Open Space” (“O”) (about 34.2%); and

“Village Type Development” (“V”) (about 2.6%)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Open Storage of Construction Materials and Machinery, Vehicle Spare Parts and Scrap Vehicle 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 open storage of construction materials and machinery, vehicle spare parts and scrap vehicle for a period of 3 years (**Plan A-1a**). The Site falls within an area mainly zoned “V(1)” (about 63.2%) and partly zoned “O” (about 34.2%) with a very minor portion within “V” zone (about 2.6%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “V” and “O” zones, 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 Site is currently partly occupied by

open storage use under application No. A/YL-TYST/937 and partly vacant (**Plans A-2, A-4a and A-4b**).

- 1.2 The Site involves six previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/937) for temporary open storage of construction materials and machinery, vehicle spare parts and recyclable materials (including plastic goods, paper and metal) with ancillary workshop and office 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 have been complied with and the permission is valid until 18.1.2022. Compared with the last application, the current application is submitted by the same applicant for similar storage use but without ancillary workshop at a smaller site with similar site layout and development parameters.
- 1.3 According to the applicant, the Site comprises three portions with individual ingress/egress points along its southern boundary for open storage of construction materials and machinery (including handy tools, tiles and marble), vehicle spare parts and scrap vehicle respectively (**Drawing A-2**). No storage, handling or loading/unloading (L/UL) of used electrical appliances, computer/electronic parts, cathode-ray tubes or any other types of electronic waste and no workshop activity will be carried out at the Site. No medium or heavy goods vehicles, including container tractors/trailers, are allowed to be parked/access the Site, except the three existing scrap buses at the eastern part of the Site which are the applicant's personal collectibles. 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/937 (a)	Current Application No. A/YL-TYST/1128 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Construction Materials and Machinery, Vehicle Spare Parts and Recyclable Materials (including Plastic Goods, Paper and Metal) with Ancillary Workshop and Office for a Period of 3 Years	Temporary Open Storage of Construction Materials and Machinery, Vehicle Spare Parts and Scrap Vehicle for a Period of 3 Years	Change of Stored Items and Omission of Ancillary Workshop Use
Site Area	About 1,310 m ²	About 1,235.9 m ²	-74.1 m ² (-5.7%)
Total Floor Area (Non-domestic)	About 210 m ²	About 230 m ²	+20 m ² (+9.5%)
No. and Height of Structures	3 • for site office, open shed/rain shelter, guard room and toilet (4m-6.5m, 1 storey)		---
No. of L/UL Space(s)	1 (for light goods vehicle) (7m x 3.5m)		---

No. of Parking Space(s)	---	---
Operation Hours	9:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	---

- 1.5 In support of the application, the applicant has submitted an Application Form with annex and plans received on 15.11.2021 (**Appendix I**).

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 since 2006. All the time-limited approval conditions of the last application had been complied with. A fresh application is submitted as there are slight changes in layout and applied use.
- (b) The temporary proposal would not jeopardise the long-term planning intentions. 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. The proposal is also 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.
- (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 Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves six approved previous applications (No. A/YL-TYST/327, 422, 451, 617, 769 and 937) for various temporary open storage uses with/without ancillary uses covering different extents of the Site¹. All six applications were approved with conditions by the Committee between 2006 and 2019 each for a period of 2 or 3 years. The applications were approved mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13D (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/422 was subsequently revoked in 2009 due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 Compared with the last application (No. A/YL-TYST/937), the current application is submitted by the same applicant for similar storage use but without ancillary workshop, at a smaller site, with similar site layout and development parameters.

7. Similar Applications

- 7.1 There are 29 similar applications for various temporary open storage uses with/without other uses within/straddling the subject “V(1)”, “O” and “V” zones considered by the Committee since 2017. Details of the applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 Out of the 29 similar applications, 28 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 7 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining application (No. A/YL-TYST/1058) was rejected by the Committee in 2020 mainly 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 generate adverse environmental impact on the surrounding areas.

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 northwest via a local track (**Drawing A-1**);
 - (b) paved and fenced off; and

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

- (c) partly occupied by open storage use with valid planning permission (No. A/YL-TYST/937) and partly vacant (**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, car parks, car servicing/vehicle workshop, an orchard, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate west;
- (c) to the further south and east of the Site across Lam Tai West Road are areas zoned “Residential (Group A)3” and “O” respectively on the OZP; and
- (d) except for four open storage/storage yards and warehouses operating with valid planning permissions (No. A/YL-TYST/994, 995, 969 and 1093), the other open storage/storage yards, warehouses, car parks and car servicing/vehicle workshop in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

- 9.1 The planning intention of the “V(1)” zone is to provide land considered suitable for reprovisioning of village houses affected by Government projects.
- 9.2 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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 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) Some of the lots within the Site are covered by Short Term Waivers (STWs). For details, please see **Appendix VII**.
- (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.

- (d) There is no Small House application approved within the Site.

Traffic

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

The applicant should be reminded of the detailed comments at **Appendix VII**.

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 office. His office shall not be responsible for maintaining any access connecting the Site and Shan Ha Road.

Environment

10.1.4 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 Aspects of Temporary Uses and Open Storage Use” (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 enclosed in the application, apparently the applicant would maintain the same drainage

facilities as those implemented under previous planning application No. A/YL-TYST/937.

- (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/937 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):

- (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. Should the application be approved, the applicant should adhere to the good practice guidelines at **Appendix V** and be advised of the detailed comments at **Appendix VII**.
- (c) Moreover, having considered the nature of the open storage, an approval condition requiring the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be incorporated if the application is approved. To address this approval condition, the applicant is required to submit a valid fire certificate (FS 251) to his department for approval.

Building Matters

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix VII**.

Open Space

10.1.8 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no in-principle objection to the proposal.
- (b) The Site is not on the priority list for development agreed by the Yuen Long District Council. His department has no plan to develop the portion of the Site zoned “O” into public open space at present.

Long-Term Development

10.1.9 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 within an area partly zoned “Residential – Zone 6” (“R6”) and partly within an area zoned “Local Open Space” (“LO”). The “V” zoned portion of the Site falls 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.

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

- (a) He has no objection to the application for temporary use for 14 months.
- (b) The eastern part of 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 (ExCo’s) authorisation on land resumption and Finance Committee’s (FC’s) funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024.
- (c) However, the western part of the Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target of first population intake under the project by Q4 of 2028, land clearance is planned to commence in Q3 2022 subject to ExCo’s authorisation on land resumption and FC’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.
- (d) 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

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

His office has not received any comments from the locals.

10.2 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).

11. Public Comments Received During the Statutory Publication Period

On 23.11.2021, 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 objects to the application on the grounds that the proposed access would trespass other private land and the applicant had yet to obtain consent from the landowners or locals (**Appendix VI-2**).

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction materials and machinery, vehicle spare parts and scrap vehicle for a period of 3 years at the Site mainly zoned "V(1)" and partly zoned "O" with a very minor portion within "V" zone on the OZP. The planning intentions of the "V(1)" and "O" zones are to provide land considered suitable for reprovisioning of village houses affected by Government projects and for the provision of outdoor open-air public space respectively. Although the applied use is not in line with the aforesaid planning intentions, DLCS has no in-principle objection to the application and PM(W), CEDD has no objection to the application for temporary use for 14 months. Nevertheless, the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. Furthermore, according to DLO/YL, LandsD, there is currently no Small House application approved at the Site. As such, 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.

- 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 development 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 six previous planning approvals for similar storage use have been granted to the Site; relevant proposal has 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 There is no adverse comment 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. Furthermore, relevant approval conditions are recommended in paragraph 13.2 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 will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the relevant environmental mitigation measures in 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, as well as to obtain consent from relevant parties for the proposed vehicular access to the Site.
- 12.6 Given that six previous approvals for various open storage uses have been granted to the Site and 28 similar applications within/straddling the subject “V(1)”, “O” and “V” zones have been approved since 2017, approval of the current application is generally in line with the Committee’s previous decisions.

- 12.7 There are two public comments objecting to the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above 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 materials and machinery, vehicle spare parts and scrap vehicle could be tolerated for a 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 until 14.1.2025. 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 storage, handling or loading/unloading of used electrical appliances, computer/electronic parts, cathode-ray tubes or any other types of electronic waste, 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 14.4.2022;
- (e) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.2.2022;
- (f) 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 14.7.2022;
- (g) in relation to (f) 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 14.10.2022;
- (h) if any of the above planning condition (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

- (i) if any of the above planning condition (d), (e), (f) or (g) 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 VII**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the applied use is not in line with the planning intentions of the "V(1)" and "O" zones which are primarily for reprovisioning of village houses affected by Government projects and provision of outdoor open-air public space respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, even on a temporary basis.

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 15.11.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within/straddling the Subject "V(1)", "O" and "V" Zones on the TYST OZP Since 2017
Appendix V	The Good Practice Guidelines for Open Storage Sites
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 Proposal
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 to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**