

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

APPLICATION NO. A/YL-TYST/1147

- Applicant** : Eastime Engineering Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 348 RP (Part), 349 RP, 350 RP (Part), 351 (Part), 352 (Part), 353 S.A RP (Part), 353 S.B (Part), 361 RP and 362 RP in D.D. 119, Yuen Long, New Territories
- Site Area** : 3,763 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
- Zoning** : “Undetermined” (“U”) (about 48.7%); and
area shown as ‘Road’ (about 51.3%)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Equipment and Machinery for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary open storage of construction materials, equipment and machinery for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls partly within an area zoned “U” (about 48.7%) and partly within an area shown as ‘Road’ (about 51.3%). According to the covering Notes of the OZP, all uses or development within the “U” zone or within areas shown as ‘Road’ (except those specified in the Notes) require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/953 (**Plans A-2 to A-4b**).
- 1.2 The Site involves seven previous applications for various open storage uses covering different extents of the Site (**Plan A-1b**). The last application (No. A/YL-TYST/953) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 12.4.2019. All the time-limited approval conditions of the planning permission had been complied with and the planning permission is valid until 12.4.2022.

Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters.

- 1.3 The Site is accessible from Shan Ha Road via a local track (**Drawing A-1**). According to the applicant, the proposal is for storage of construction materials, equipment and machinery (including metal pipes and rods, electric generators, miniature excavators, forklifts and grouting equipment, etc.). No repairing, dismantling, cleaning or other workshop activities will be carried out within the Site. No heavy goods vehicles, including container tractors/trailers, are allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to 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/953, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/953	Current Application No. A/YL-TYST/1147
Applied Use	Temporary Open Storage of Construction Materials, Equipment and Machinery for a Period of 3 Years	
Site Area	About 3,763 m ²	
No. of Loading/ Unloading Space(s)	2 (for medium goods vehicle) (11m x 3.5m each)	
No. of Parking Space(s)	---	
Operation Hours	7:00 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 14.1.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 28.1.2022 (**Appendix Ia**)
 - (c) FI received on 16.2.2022 (**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 is the subject of four previous planning permissions. The current proposal is the same as the last application (No. A/YL-TYST/953); and all the time-limited approval conditions of the last application had been complied with.
- (b) 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).
- (c) The temporary use would not jeopardise the long-term planning intention. A

number of open storage and warehouse 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.

- (d) There will be no adverse 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

- 4.1 TPB PG-No. 13F are relevant to the application. The northern portion of the Site falls within Yuen Long South (YLS) Development Area and the southern portion of the Site falls within Category 1 areas under TPB PG-No. 13F promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is 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 seven approved previous applications (No. A/YL-TYST/27, 109, 651, 681, 727, 783 and 953) for various open storage uses covering different extents of the Site¹. All seven applications were approved with conditions by the Board on review or the Committee between 1998 and 2019 each for a temporary period of 2 or 3 years, mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13E; approval of the applications 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 for applications No. A/YL-

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

TYST/109, 651 and 727 were subsequently revoked between 2002 and 2016 due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1b**.

- 6.2 For the planning permission under the last application (No. A/YL-TYST/953), all the time-limited approval conditions had been complied with and the planning permission is valid until 12.4.2022. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters.

7. Similar Applications

A total of 27 similar applications for various temporary open storage uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2017. All 27 applications were approved by the Committee between 2017 and 2022 each for a period of three years, mainly on similar considerations that 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 five of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised at **Appendix V** and their locations are shown on **Plan A-1a**.

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 north via a local track (**Drawing A-1**);
- (b) paved and fenced off; and
- (c) separated into two compartments and occupied by the applied use with valid planning permission under application No. A/YL-TYST/953 (**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, intermixed with parking of vehicles and vacant land/structures;
- (b) to the north of the Site are areas zoned “Residential (Group A)3”, “Open Space” and “Village Type Development” on the OZP, while to the south of the Site is a nullah flanked by Lam Tai West Road and Lam Tai East Road; and
- (c) except for five open storage/storage yards with valid planning permissions (No. A/YL-TYST/1001, 1003, 1017, 1039 and 1105), 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.

9. Planning Intention

- 9.1 The planning intention of the “U” zone is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 9.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in YLS – Investigation” (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

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) Lot No. 348 RP in D.D. 119 is covered by Short Term Waiver (STW) No. 4036 to permit structures erected thereon for the purpose of “Temporary Open Storage of Construction Equipment and Materials (Metal Scaffolding) and Container Site Offices Units with Ancillary Maintenance Workshop”.
- (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 to regularise 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

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

The local track leading to the Site is not under her purview. 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):

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

Environment

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

- (a) She does not support the application as there are residential uses along the access track leading from Shan Ha Road to the Site (**Plan A-3**) 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 enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/953.
- (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/953 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.

Long-Term Development

10.1.7 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 YLS Study. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site partly falls within an area zoned “Local Open Space” (“LO”) and partly falls 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.

10.1.8 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, the southern part 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.
- (c) However, the northern 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 authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation for the northern part of the Site is tentatively targeted to commence in 2024. Thus, the applicant shall be advised not to carry out any substantial works within the northern part of the Site in view of the planned YLS Development – Stage 2 Phase 2.

District Officer’s Comments

10.1.9 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) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 21.1.2022, 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**). The other individual opines that considerable time was taken to comply with the time-limited approval conditions of the previous planning permission and that the applied use should no longer be tolerated in view of the long-term planning intention for 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 materials, equipment and machinery at the Site partly zoned “U” and partly shown as ‘Road’ on the OZP. The applied use is generally in line with the planning intention of the “U” zone which is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises, and the area is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, the Site is accessed from Shan Ha Road and C for T has no adverse comment on the application. Under the Revised RODP of YLS, the Site falls within an area partly zoned “LO” within Stage 3 of YLS Development and partly shown as ‘Road’ within Stage 2 Phase 2 of YLS Development, CE/CID, PlanD and PM(W), CEDD have no objection to the application. 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**); the applied use is generally not incompatible with the surrounding uses.
- 12.3 The northern portion of 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 According to TPB PG-No. 13F, the southern portion of the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.5 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and seven previous planning approvals for similar storage use have been granted to the Site; the southern portion of the Site also falls within Category 1 areas which are considered suitable for open storage and port back-up use; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and local concerns and technical requirements of relevant government departments could be addressed through the implementation of approval conditions.
- 12.6 The application is also generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since the previous approval was granted; 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/953 had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.7 There is no adverse comment from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use along the access track leading from Shan Ha Road to the Site (**Plan A-3**), 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 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 to minimise any potential environmental impact on the surrounding areas and to keep the Site clean and tidy at all times.

- 12.8 Given that seven previous approvals for open storage use have been granted to the Site and 27 similar applications within/straddling the subject “U” zone have been approved since 2017, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.9 There are two public comments objecting to/raising concerns on the application received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.8 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, equipment and machinery 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 13.4.2022 to 12.4.2025. 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 7:00 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 boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.7.2022;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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 the above planning condition (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.

[Approval conditions (a) to (e) are the same as those under the permission for application No. A/YL-TYST/953; condition (f) has been updated as per the current application; provision of landscaping, as well as restrictions on specific activities/stored items and vehicle types have been removed as per the department's latest requirement; and 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 reason for rejection is suggested for Member's reference:

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 14.1.2022
Appendix Ia	FI received on 28.1.2022
Appendix Ib	FI received on 16.2.2022
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 "U" Zone on the OZP Since 2017
Appendices VI-1 and 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 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 and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**