

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1203

- Applicant** : Hang Sing Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 2712 S.B (Part) in D.D. 120 and Various Lots in D.D. 121 and Adjoining Government Land (GL), Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 8,900 m² (about) (including GL of about 278 m² (3.4%))
- 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 80%);
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]
“Open Space” (“O”) (about 13%); and
Area shown as ‘Road’ (about 7%)
- Application** : Temporary Warehouse and Open Storage of Construction Materials, Vehicle Parts, Mobile Toilets and Construction Machinery for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and open storage of construction materials, vehicle parts, mobile toilets and construction machinery for a period of three years at the application site (the Site) (**Plan A-1a**). 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). 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 partly occupied by the applied use without valid planning permission and partly vacant (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Shan Ha Road to its west via a local track (**Plan A-3**). According to the applicant, the applied use is for storage of construction machinery and materials (including concrete pipes, bricks, barricades, miniature excavators and electric generators), vehicle parts (including engine and body parts) and mobile

toilets. No workshop activity will be carried out at the Site and no heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is the subject of seven previous applications (No. A/YL-TYST/146, 282, 416, 588, 731, 897 and 1093) including six applications for temporary open storage uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2006 and 2021 (details at paragraph 6 below).
- 1.4 Compared with the last application (A/YL-TYST/1093), the current application is submitted by a different applicant for similar storage use at a smaller site with similar layout and different development parameters.
- 1.5 The major development parameters of the current application and the last previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/1093 (a)	Current Application No. A/YL-TYST/1203 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage and Warehouse for Storage of Recyclable Materials (Plastic and Metal), Open Storage of Mobile Toilets, and Open Storage of Construction Machinery and Material for a Period of 3 Years	Temporary Warehouse and Open Storage of Construction Materials, Vehicle Parts, Mobile Toilets and Construction Machinery for a Period of 3 Years	Change in Stored Items
Site Area	About 9,600 m ²	About 8,900 m ²	-700 m ² (-7%)
Total Floor Area (Non-domestic)	About 1,398 m ²	About 1,498 m ²	+100 m ² (+7%)
No. and Height of Structures	12 • for site offices, changing room, open sheds for storage, warehouse, toilet and electricity meter room (3 – 8m, 1-2 storey(s))		---
No. of Parking Space(s)	Nil	2 (for private cars) (5 m x 2.5 m each)	+2
No. of Loading/ Unloading Spaces	2 (for medium goods vehicle) (11 m x 3.5 m each)		---
Operation Hours	7:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours

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

- (a) Application Form with attachments received on 30.1.2023 (**Appendix I**)
- (b) Further Information (FI) received on 28.2.2022* (**Appendix Ia**)
* *accepted and exempted from publication 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 subject of six previous planning permissions since 2006. A fresh planning application is submitted as there is a change in stored items (i.e. from storage of recyclable materials to construction materials and vehicle parts) at the Site;
- (b) the applied use 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 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 applied use is compatible with the surrounding environment. Besides, there is a shortage of land for open storage use in TYST; and
- (d) there will be minimal traffic, environmental and drainage impacts arising from the applied use.

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 the GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

TPB PG-No. 13F is relevant to the application. The Site falls within Yuen Long South (YLS) Development Area under TPB PG-No. 13F promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

Part of the Site was the subject of planning enforcement case (No. E/YL-TYST/903) against an unauthorized development (UD) involving workshop and storage use (**Plan A-2**). An Enforcement Notice was issued on 21.11.2022 requiring discontinuation of the UD

by 21.2.2023. Site inspection on 22.2.2023 revealed that the UD still continued upon expiry of the notice and prosecution action may be followed.

6. Previous Applications

- 6.1 The Site involves seven previous applications (No. A/YL-TYST/146, 282, 416, 588, 731, 897 and 1093) for various temporary storage uses with/without other uses covering different extents of the Site¹. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-TYST/146 for temporary storage of building materials for a period of three years was rejected by the Committee in 2001 mainly on the considerations that there were potential adverse environmental and drainage impacts; and the vehicular access arrangement was unclear.
- 6.3 The remaining six applications (No. A/YL-TYST/282, 416, 588, 731, 897 and 1093) for various temporary storage uses with/without ancillary workshop were approved with conditions each for a period of three years by the Committee between 2006 and 2021 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not jeopardise the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission for application No. A/YL-TYST/1093 was subsequently revoked in 2022 due to non-compliance with approval condition prohibiting workshop activities at the Site.

7. Similar Applications

- 7.1 A total of 26 similar planning applications for various temporary open storage and/or warehouse uses with/without other uses within/straddling the subject “R(A)3” and “O” zones had been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the 26 similar applications, 25 were approved² by the Committee mainly on similar considerations as those in paragraph 6.3 above. However, the planning permissions for seven 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.

¹ All the application sites (except application No. A/YL-TYST/1093) were zoned “Undetermined” on previous versions of OZP at the time of consideration by the Committee.

² The first 14 similar applications were approved prior to the rezoning of the sites to “R(A)3” and/or “O” on the subject OZP.

8. Planning Intentions

- 8.1 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.
- 8.2 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.

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

- 9.1 The Site is:
- (a) accessible from Shan Ha Road to its west via a local track (**Plans A-2 and A-3**); and
 - (b) paved and fenced off; and
 - (c) partly occupied by the applied use without valid planning permission and partly vacant (**Plans A-2 to A-4b**).
- 9.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) bounded by Lam Tai West Road and a nullah to its immediate east;
 - (b) comprise predominately open storage/storage yards with scattered residential structures, a car park, car servicing, shrubland and vacant land/structures;
 - (c) there are residential structures in the vicinity of the Site with the nearest one located about 20m to its southwest; and
 - (d) except for two open storage/storage yards with valid planning permissions (No. A/YL-TYST/1114 and 1123), the remaining open storage/storage yards, car park and car servicing uses in the vicinity are suspected UDs subject to planning enforcement action.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.

- 10.2 The following government department does not support the application:

Environment

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

- (a) he does not support the application as there are residential uses in the vicinity (with the nearest one located to about 20m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;
- (b) there were three substantiated environmental complaints concerning the Site received in 2022, which were related to odour, air and machine noise nuisances from the Site. 13 inspections were conducted by his department. There were two ongoing prosecution cases for the Site and the subject operation was cleared subsequently; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix V**.

11. Public Comment Received During the Statutory Publication Period

On 7.2.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual alleging that the previous planning permission was revoked due to non-compliance with approval condition and such consideration should be taken into account by the Board (**Appendix VII**).

12. Planning Considerations and Assessments

12.1 The application is for temporary warehouse and open storage of construction materials, vehicle parts, mobile toilets and construction machinery for a period of three years at the Site mainly zoned “R(A)3”(about 80%) and partly zoned “O”(about 13%) with a minor portion within an area shown as ‘Road’ (about 7%) on the OZP. The planning intentions of the “R(A)” and “O” zones are primarily for high-density residential developments and provision of outdoor open air public space respectively. Under the Revised Recommended Outline Development Plan of Yuen Long South (YLS) Development, the Site falls partly within areas zoned “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” and “Local Open Space” and partly within an area shown as ‘Road’ under Stage 2B of YLS Development. The Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department, Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services 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. Nonetheless, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects (**Appendix V**).

12.2 The surrounding area comprises predominantly open storage/ storage yards with some of them covered by valid planning permissions (**Plan A-2**). While there are

residential structures in the vicinity, the applied use is generally not incompatible with the surrounding area.

- 12.3 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and previous planning approvals for similar open storage uses have been granted; 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.
- 12.4 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 in the vicinity of the Site (with the nearest one located about 20m to its southwest) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. While there were some substantiated environmental complaints concerning the Site received by DEP in the past three years, they were related to the previous workshop activity of metal recycling operation at the Site which has already been cleared. The current application was submitted by a different applicant and no workshop activity was proposed in the current application. 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 planning enforcement action. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and to keep the Site clean and tidy at all times.
- 12.5 Given that six previous approvals for various open storage uses have been granted to the Site from 2006 to 2021 and 25 similar applications within/straddling the subject “R(A)3” and “O” zones have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. There was one previous application rejected by the Committee in 2001 mainly on the grounds that the vehicular access arrangement was unclear and there were potential adverse environmental and drainage impacts. Such considerations are not applicable to the current application as Chief Engineer/Mainland North, Drainage Services Department and Commissioner for Transport have no objection to/no adverse comment on the application and the considerations in paragraph 12.4 above are relevant.
- 12.6 There is one public comment raising concern on the application received during the statutory public inspection period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the temporary warehouse and open storage of

construction materials, vehicle parts, mobile toilets and construction machinery could be tolerated for a period of three 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 three years until 17.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) 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 17.6.2023;
- (c) 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 28.4.2023;
- (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 17.9.2023;
- (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 17.12.2023;
- (f) if the above planning condition (a) 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), (c), (d) and (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**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intentions of the "R(A)" and "O" zones which are primarily for provision of high-density residential developments and 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; 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 attachments received on 30.1.2023
Appendix Ia	FI received on 28.2.2023
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	The Good Practice Guidelines for Open Storage Sites
Appendix VII	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-built Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**