

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1213

- Applicant** : Cosmos Gem Limited represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 119 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 40,000 m² (about) (including GL of about 2,243 m² (5.6%))
- 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** : (i) “Undetermined” (“U”) (about 73.6%);
(ii) “Residential (Group A) 3” (“R(A)3”) (about 16.9%);
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]
(iii) “Government, Institution or Community (1)” (“G/IC(1)”) (about 6%);
and
[Restricted to a maximum building height of 8 storeys]
(iv) Area shown as ‘Road’ (about 3.5%)
- Application** : Temporary Open Storage of Construction Machinery and Materials, Recycling Materials and Used Electrical Appliances with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop 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 state that all uses or developments within the “U” zone or within areas shown as ‘Road’ require planning permission from the Board. The Site is mainly occupied by the applied use without valid planning permission and with a minor portion used for agricultural purpose (**Plans A-2 to A-4e**).

- 1.2 The Site is accessible from Kung Um Road to its east via a short local track (**Plans A-2 and A-3**). According to the applicant, construction machinery and materials (including concrete pipes, elevated platform, excavators, etc.), recycling materials (including plastic and metal) and used electrical appliances will be stored at the Site. There would be a total of 52 structures at the Site mainly used for storage and site office purposes while ancillary workshop activities, i.e. collection, compaction, packaging and sorting of recycling materials, will take place at structures No. 21, 26, 28, 39, 40, 41 and 50 (**Drawing A-1**). No other workshop activities (including storage/washing of plastic bottles) and handling of electronic or computer waste will be carried out at the Site. The applicant also pledges that no storage/handling of used electrical appliances and no cutting, sorting and packaging of recycling materials will take place at the open areas within the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is the subject of 10 previous applications including eight applications for temporary open storage uses with or without ancillary workshop approved by the Rural and New Town Planning Committee (the Committee) of the Board between 1998 and 2020 (details at paragraph 6 below).
- 1.4 Compared with the last application (A/YL-TYST/1003), the current application is submitted by the same applicant for the same use at a smaller site with corresponding changes in site layout and development parameters. 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/1003 (a)	Current Application No. A/YL-TYST/1213 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Construction Machinery and Materials, Recycling Materials and Used Electrical Appliances with Ancillary Workshop for a Period of 3 Years		---
Site Area	About 50,500 m ²	About 40,000 m ²	-10,500 m ² (-21%)
Total Floor Area (Non-domestic)	About 6,055.65 m ²	About 4,652 m ²	-1,403.65 m ² (-23%)
No. and Height of Structures	51 • for ancillary workshops, offices and shelters (2.6 – 8m, 1 – 2 storey(s))	52 • for offices, storage, toilets, electricity meter rooms, pump room and ancillary workshops (4 – 8m, 1 – 2 storey(s))	+1
No. of Parking Space	Nil		---
No. of Loading/ Unloading Spaces	31 (for medium/heavy goods vehicles and container vehicles, or smaller vehicles) (16 m x 3.5 m each)	14 (for medium/heavy goods vehicles) (7 m x 3.5 m each)	-17

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

- (a) Application Form with attachments received on 4.5.2023 (**Appendix I**)
- (b) Further Information (FI) received on 15.8.2023* (**Appendix Ia**)
- (c) FI received on 14.9.2023* (**Appendix Ib**)
* *accepted and exempted from publication requirement*

1.6 On 23.6.2023, the Committee of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

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 to eight previous planning permissions since 1998. A fresh planning application is submitted as there is a change in site boundary due to land resumption;
- (b) the applied use is in line with the prevailing Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”;
- (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 port back-up use in TYST; and
- (d) there will be minimal traffic, environmental and drainage impacts arising from the applied use. All the existing trees will be maintained in good condition.

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 publishing notices in local newspapers. 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. 13G is 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. 13G promulgated by the Board on 14.4.2023 (**Plan A-5**). The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

6.1 The Site is involved in 10 previous applications, including one rejected application (No. A/YL-TYST/266) for temporary waste recycling facilities which is not relevant to the current application, and nine applications (No. A/YL-TYST/27, 141, 153, 265, 370, 519, 665, 827 and 1003) for various open storage uses with/without ancillary workshop 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**.

Approved applications

6.2 Eight applications (No. A/YL-TYST/27, 153, 265, 370, 519, 665, 827 and 1003) for various open storage uses with/without ancillary workshop covering different extents of the Site were approved with conditions for a period of two or three years by the Committee between 1998 and 2020 mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13 (or its later version); the development was not incompatible with the surrounding uses; approval of the application on a temporary basis would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. As for the last application (No. A/YL-TYST/1003), all the time-limited approval conditions have been complied with and the planning permission lapsed on 26.5.2023.

Rejected application

6.3 Application No. A/YL-TYST/141 for temporary open storage of construction machinery and materials for a period of three years was rejected by the Board upon review on 12.10.2001 mainly on the consideration that there was insufficient information to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas.

¹ All the application sites involved “Undetermined” zone on previous versions of OZP at the time of consideration by the Committee. Part of the Site was rezoned to “R(A)3”, “G/IC(1)” and area shown as ‘Road’ on the draft TYST OZP No. S/YL-TYST/13 published on 10.7.2020.

7. Similar Applications

A total of 26 similar planning applications for various temporary open storage with/without other uses within/straddling the subject “U” zone were approved by the Committee in the past five years, mainly on similar considerations as those in paragraph 6.2 above. However, the planning permissions for four of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.

8. Planning Intentions

- 8.1 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. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development. According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South – Investigation”, this area of “U” zone falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.
- 8.2 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.
- 8.3 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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

- 9.1 The Site is:
 - (a) accessible from Kung Um Road to its east via a short local track (**Plans A-2 and A-3**);
 - (b) mainly paved and fenced-off; and
 - (c) mostly occupied by the applied use without valid planning permission and with a minor portion occupied by agricultural land (i.e. about 2,077m² (5.2%)) (**Plans A-2 and A-4c**).
- 9.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
 - (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, vehicle repair/service workshops, car servicing/car repair service, car park/parking of vehicles/trucks, plant

nurseries, an orchard, a rehab quarter, shrubland, agricultural land, unused land, graves and vacant land/structures;

- (b) several residential structures are located in its immediate surroundings; and
- (c) except for 10 open storage yards and warehouses with valid planning permissions (No. A/YL-TYST/1054, 1081, 1105, 1122, 1125, 1147, 1173, 1209, 1211 and 1230), the remaining open storage/storage yards, warehouses, vehicle repair/service workshops, car servicing/car repair service and car park/parking of vehicles/trucks in the vicinity are suspected unauthorized developments (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 several of them located in the immediate surroundings of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected;
- (b) there was no substantiated environmental complaint concerning the Site received in the past three years; 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 16.5.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop for a period of three years at the Site mainly zoned “U” (about 73.6%) and partially zoned “R(A)3” (about 16.9%) and “G/IC(1)” (about 6%) with a minor portion within an area shown as ‘Road’ (about 3.5%) on the OZP. The applied use is generally not in conflict 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. The area is designated as “U” zone mainly due to concerns of the capacity of Kung Um Road. In this regard, the Commissioner for Transport (C for T) has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls partly within areas zoned “Residential – Zone 2 (with Commercial)” and “District Open Space” within Stage 3 of YLS Development, and partly within areas zoned “Government”, “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 of Planning Department, Project Manager (West) of CEDD and Director of Leisure and Cultural Services have no objection to the application. As such, despite the applied use is not in line with the planning intentions of the “R(A)” and “G/IC” zones and the planned road alignment of YLS Development, 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 areas comprise predominantly open storage/storage yards, warehouses, car serving and vehicle repair workshops and parking of vehicles 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 land uses.
- 12.3 The application is generally in line with TPB PG-No. 13G in that the southern portion of the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; while the northern portion of the Site falls within the YLS Development Area and previous planning approvals for similar open storage uses have been granted; the approval conditions of the last application have been complied with and the technical concerns of relevant departments could be addressed through the imposition of approval conditions. As such, sympathetic consideration may be given to the application.
- 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 several of them located in its immediate surroundings) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected. However, there was no substantiated environmental complaint concerning the Site in the past three 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 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 the Site had been involved in eight previous approvals for various open storage uses granted from 1998 to 2020 and 26 similar applications within/straddling the subject “U”, “R(A)3” and “G/IC(1)” zones have been

approved by the Committee 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 Board on review in 2001 mainly on the grounds that there was insufficient information to demonstrate that the development would not generate adverse environmental and/or drainage impacts. Such considerations are not applicable to the current application as the Chief Engineer/Mainland North, Drainage Services Department has no objection to the application and the considerations in paragraph 12.4 above are relevant in addressing DEP's concerns.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop 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 13.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 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 storage and washing of plastic bottles and handling of electronic or computer waste, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no storage and handling of used electrical appliances and cutting, sorting and packaging of recycling materials, as proposed by the applicant, are allowed at the open areas of the Site at any time during the planning approval period;
- (e) the submission of a Drainage Impact Assessment within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.4.2024;
- (f) in relation to (e) above, the implementation of the drainage facilities proposed in the Drainage Impact Assessment within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.7.2024;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (h) 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 24.11.2023;
- (i) 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 13.4.2024;
- (j) in relation to (i) 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 13.7.2024;
- (k) if any of the above planning condition (a), (b), (c), (d) or (g) 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
- (l) if any of the above planning condition (e), (f), (h), (i) or (j) 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 "G/IC" zones which are primarily for high-density residential developments and provision of Government, institution or community facilities 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 4.5.2023
Appendix Ia	FI received on 15.8.2023
Appendix Ib	FI received on 14.9.2023
Appendix II	Relevant Extracts of TPB PG-No. 13G
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
Drawing A-1	Site Layout 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-4e	Site Photos
Plan A-5	Location Plan of Category 1, 2, 3 and 4 Areas under TPB PG-No. 13G

**PLANNING DEPARTMENT
OCTOBER 2023**