

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1232

- Applicant** : Mr. CHAN Yau Chi represented by Metro Planning & Development Company Limited
- Site** : Lots 1279 S.A (Part), 1298 (Part) and 1301 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 760 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** : “Residential (Group C)”
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]
- Application** : Temporary Warehouse for Storage of Electronic Goods and Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of electronic goods and construction materials 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 Site is currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kung Um Road to its southeast via a local track (**Plan A-3**). According to the applicant, the applied use is for a warehouse for storage of well-packed electronic goods (including brand new tablets, mobile phones and computers) and construction materials (including well packed sanitary wares). No electronic waste will be stored at the Site and no open storage, repairing, dismantling, cleaning or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to access the Site. Plans showing the vehicular and

pedestrian access leading to the Site, site layout and as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is the subject of seven previous applications, including two applications (No. A/YL-TYST/525 and 586) for temporary warehouse use rejected by the Rural and New Town Planning Committee (the Committee) and the Board upon review in 2011 and 2012 respectively (details at paragraph 5 below).
- 1.4 The major development parameters of the current application are summarised as follows:

Site Area	About 760 m ²
Total Floor Area (Non-domestic)	About 745 m ²
No. and Height of Structure	1 • for warehouse (6.5m, 1 storey)
No. of Parking Space	Nil
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)
Operation Hours	9:00 a.m. to 5:00 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 attachments received on 5.7.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 15.8.2023* (**Appendix Ia**)
 - (c) FI received on 16.8.2023* (**Appendix Ib**)
- * *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) a fresh planning application for warehouse use is submitted due to the promulgation of the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13G) in April 2023 and the Site falls within the Category 2 areas under the TPB PG-No. 13G;
- (b) the temporary use would not jeopardise the long-term planning intention. The applied use is compatible with the surrounding environment. A number of open storage and port back-up uses have been approved by the Board in the vicinity of the Site (i.e. the “Undetermined” (“U”) zone to its further south) and their planning circumstances are similar to those of the Site. Besides, there is a shortage of land for port back-up uses in TYST; and
- (c) there will be minimal traffic, drainage and environmental 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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

5.1 The Site is involved in seven previous applications, including four approved applications (No. A/YL-TYST/620, 714, 873 and 1103) and a rejected application (No. A/YL-TYST/1091) for various temporary uses not relevant to the current application, and two rejected applications (No. A/YL-TYST/525 and 586) for similar warehouse uses as the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

5.2 Applications No. A/YL-TYST/525 and 586 for temporary warehouse uses were rejected by the Committee and the Board upon review in 2011 and 2012 respectively, mainly on the considerations that the developments were not in line with the planning intention of the “R(C)” zone and the developments would generate adverse environmental and/or traffic impacts on the surrounding area.

6. Similar Application

There is no similar planning application within the subject “R(C)” zone.

7. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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

8.1 The Site is:

- (a) accessible from Kung Um Road to its southeast via a local track (**Plans A-2 and A-3**); and

- (b) paved, fenced off and currently occupied by the applied use without valid planning permission.

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

- (a) comprise predominantly warehouses and open storage/storage yards with scattered residential structures, a vehicle repair workshop, agricultural land, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate northeast; and
- (c) except for one warehouse in the “U” zone with valid planning permission (No. A/YL-TYST/1100), the remaining warehouses, open storage/storage yards and vehicle repair workshop in the vicinity are suspected unauthorized developments subject to planning enforcement action.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 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 III and IV** respectively.

9.2 The following government department has adverse comment on the application:

Land Administration

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

He has grave concerns given that there are unauthorized building works and/or uses on Lot 1301 in D.D. 119 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by his department.

10. Public Comment Received During the Statutory Publication Period

On 14.7.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual alleging that there are fire safety concerns due to non-compliance with approval conditions of the previous planning application (No. A/YL-TYST/1103¹) (**Appendix V**).

¹ The last application No. A/YL-TYST/1103 for proposed temporary place of recreation, sports or culture (indoor recreation centre) was revoked on 27.2.2023 due to non-compliance with time-limited approval conditions on the submission and implementation of fire service installations (FSIs) proposal.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of electronic goods and construction materials for a period of three years at the Site zoned “R(C)” on the OZP. The Site falls within the possible expansion of YLS Development Area which is currently under review together with YLS Third Phase Development. In this regard, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department and Project Manager (West), Civil Engineering and Development Department have no objection to the application. DLO/YL, LandsD advises that there is no development proposal involving the Site. As such, despite the applied use is not in line with the planning intention of “R(C)” zone, approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly warehouses and open storage/storage yards with one of them covered by valid planning permission (**Plan A-2**). While there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding area.
- 11.3 Concerned government departments, including Commissioner for Transport (C for T), Director of Environmental Protection (DEP), Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application except DLO/YL, LandsD. DLO/YL, LandsD has concerns on the application as there are unauthorized building works and/or uses on the Site which are already subject to lease enforcement actions. In this regard, the applicant indicates that he will apply for Short Term Waiver to the DLO/YL, LandsD upon approval of the current application (**Appendix Ia**). Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. 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” to minimise any potential environmental impact on the surrounding areas.
- 11.4 There were two previous applications (No. A/YL-TYST/525 and 586) for temporary warehouse uses rejected by the Committee/the Board in 2011 and 2012 mainly on the considerations that the developments were not in line with the planning intention of the “R(C)” zone and the developments would generate adverse environmental and/or traffic impacts on the surrounding area. The circumstances of the current application are different in that DEP and C for T have no objection to/no adverse comment on the application on environmental and traffic aspects. Approving the current application is not in conflict with the previous decisions of the Committee/the Board.
- 11.5 There is one public comment raising concern on the application received as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Besides, compared with the last application No. A/YL-TYST/1103, the current application is submitted by a

different applicant for a different use and D of FS has no in-principle objection to the application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of electronic goods and construction materials could be tolerated for a period of three years.
- 12.2 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 25.8.2026. 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 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 25.11.2023;
- (c) 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 25.2.2024;
- (d) in relation to (c) 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 25.5.2024;
- (e) 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
- (f) if any of the above planning condition (b), (c) or (d) 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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "R(C)" zone, which is primarily for low-rise and low-density residential developments. No strong

planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 5.7.2023
Appendix Ia	FI received on 15.8.2023
Appendix Ib	FI received on 16.8.2023
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Vehicular and Pedestrian Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**