

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1245**

- Applicant** : Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 120, Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 4,380 m<sup>2</sup> (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** : “Residential (Group A) 3” (“R(A)3”) (about 97.8%); and  
*[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]*  
“Open Space” (“O”) (about 2.2%)
- Application** : Temporary Open Storage of Construction Machinery, Construction Material and Charcoal and Ancillary Site Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of construction machinery, construction material and charcoal and ancillary site office 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-4b**).
- 1.2 The Site is accessible from Shan Ha Road to its west via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for open storage of construction machinery and material (including pipes, mobile platform, miniature excavator, electric generator, etc.) and charcoal. No workshop activities would be carried out at the Site and no heavy goods vehicles, including container trailers/tractors, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, proposed layout plan and as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is involved in nine previous applications including eight applications for various temporary open storage with/without ancillary workshop and/or office uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2000 and 2020 (details at paragraph 6 below).
- 1.4 Compared with the last application (No. A/YL-TYST/1014), the current application is submitted by the same applicant for similar open storage use at a slightly larger site with different layout and development parameters. A comparison of the major development parameters of the current application and the last application is summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/1014 (a)	Current Application No. A/YL-TYST/1245 (b)	Difference (b)-(a)
Applied Use	Renewal of Planning Approval for Temporary Open Storage of Construction Machinery, Construction Material and Ancillary Site Office for a Period of 3 Years	Temporary Open Storage of Construction Machinery, Construction Material and Charcoal and Ancillary Site Office for a Period of 3 Years	Storage of charcoal added
Site Area	About 4,340 m <sup>2</sup>	About 4,380 m <sup>2</sup>	+40 m <sup>2</sup> (+0.9%)
Total Floor Area (Non-domestic)	About 135 m <sup>2</sup>	About 391 m <sup>2</sup>	+256 m <sup>2</sup> (+189.6%)
No. and Height of Structures	7 • for guard rooms and site offices (3.5m, 1 storey)	9 • for guard rooms, site offices, open shed and toilet (3.5 - 6m, 1 storey)	+2
No. of Parking Space	Nil		---
No. of Loading/Unloading Space	1 (for medium goods vehicle) (11m x 3.5m)		---
Operation Hours	8:00 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 attachments received on 3.11.2023 (**Appendix I**)
- (b) Further Information (FI) received on 12.12.2023 (**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 the subject of previous planning permissions. A fresh planning application is submitted as there is a change in stored items at the Site. The

applicant pledges to comply with the planning conditions upon approval of the application;

- (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.13G);
- (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, noise 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. 31B) 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**

TPB PG-No. 13G is relevant to the application. The Site falls within Yuen Long South (YLS) Development Area under TPB PG-No. 13G promulgated by the Board on 14.4.2023. 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 nine previous applications (No. A/YL-TYST/110, 458, 516, 564, 619, 626, 682, 838 and 1014) for various temporary open storage with/without ancillary workshop and/or office uses covering different extents of the Site<sup>1</sup>. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

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<sup>1</sup> All the application sites (except application No. A/YL-TYST/1014) were zoned “Undetermined” on previous versions of OZP at the time of consideration by the Committee.

### Approved applications (8 Cases)

- 6.2 Applications No. A/YL-TYST/110, 458, 516, 619, 626, 682, 838 and 1014 were approved with conditions each for a period of one to three years by the Committee between 2000 and 2020 mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13 (or its later versions); the development was not incompatible with the surrounding areas; approval of the applications on a temporary basis would not frustrate the long-term development of the area; and departmental concerns could be addressed by imposing approval conditions. However, the planning permissions for four of them were subsequently revoked due to non-compliance with approval conditions. As for the last application (No. A/YL-TYST/1014), all the time-limited approval conditions have been complied with and the planning permission lapsed on 27.5.2023.

### Rejected application (1 Case)

- 6.3 Application No. A/YL-TYST/564 was rejected by the Board upon review in 2012 mainly on the grounds that the proposal did not comply with the then TPB PG-No. 13E (in that the applicant could not demonstrate that the development would not generate adverse environmental, drainage and fire safety impacts on the surrounding areas and there were adverse departmental comments on the application); and approval of application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.

## **7. Similar Applications**

- 7.1 A total of 30 similar planning applications for various temporary warehouse and/or open storage 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 30 similar applications, 29 were approved<sup>2</sup> by the Committee between 2018 and 2023 mainly on similar considerations as those in paragraph 6.2 above. However, the planning permissions for nine 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 ground that the applied use was not in line with the planning intention of the “R(A)3” zone and the application was not in line with the then 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.

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<sup>2</sup> The first 14 similar applications were approved prior to the rezoning of the sites to “R(A)3”, “O” and/or ‘Road’ area 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, fenced off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 9.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) comprise predominantly open storage/storage yards with scattered residential structures, a warehouse, parking of vehicles, car servicing, shrubland, unused land and vacant land/structures;
  - (b) there are residential structures to the southwest of the Site with the nearest one located about 40m away in an area zoned “Village Type Development” (“V”) on the OZP; and
  - (c) except for three open storage yards with valid planning permissions (No. A/YL-TYST/1126, 1203 and 1239), the remaining warehouses, open storage/storage yards, parking of vehicles and car servicing 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 departments as set out in paragraphs 10.2 and 10.3 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 provide 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 40m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;
- (b) there was no 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**.

10.3 The following government department conveyed local views on the application:

**District Officer's Comments**

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

His office received a feedback from a local on 7.12.2023 objecting to the application on the grounds that the previous open storage of recyclable materials at the Site was the subject of a fire incident, and the previous operator had set up an underground power cable without owner's consent (**Appendix VI**).

**11. Public Comment Received During the Statutory Publication Period**

On 10.11.2023, 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, construction material and charcoal and ancillary site office for a period of three years at the Site mainly zoned "R(A)3" (about 97.8%) with a minor portion zoned "O" (about 2.2%) on the OZP. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls mainly within an area zoned "Residential – Zone 1 (Subsidised Sale Flats with Commercial)" and a minor portion zoned "Local Open Space" 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 to the west of the Site, the applied use is generally not incompatible with the surrounding uses.

- 12.3 The application is generally in line with TPB PG-No. 13G in that 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, including the Commissioner for Transport, Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) on traffic, fire safety and drainage aspects respectively. 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 40m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected. However, there was no environmental complaint concerning the Site received by DEP 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 eight previous approvals involving the Site for various open storage uses have been granted from 2000 to 2020 and 29 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. Despite there was one previous application (No. A/YL-TYST/564) and one similar application (No. A/YL-TYST/1058) rejected mainly on the grounds stated in paragraphs 6.3 and 7.3 respectively, such considerations are not applicable to the current application as all the time-limited approval conditions of the last application (No. A/YL-TYST/1014) have been complied with; CE/MN, DSD and D of FS 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 local objection conveyed by DO(YL), HAD. 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 local objection conveyed by DO(YL), HAD as summarised in paragraph 10.3 above, the Planning Department considers that the temporary open storage of construction machinery, construction material and charcoal and ancillary office 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

22.12.2026. 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 8:00 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 workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no 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;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 22.3.2024;
- (g) 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 2.2.2024;
- (h) 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 22.6.2024;
- (i) 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 22.9.2024;
- (j) if any of the above planning condition (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning condition (f), (g), (h) or (i) 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**

<b>Appendix I</b>	Application Form with attachments received on 3.11.2023
<b>Appendix Ia</b>	FI received on 12.12.2023
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 13G
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Local View conveyed by District Officer/Yuen Long
<b>Appendix VII</b>	The Good Practice Guidelines for Open Storage Sites
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2023**