

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1053

<u>Applicant</u>	: Mr. FONG Chi Wing represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1241 (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 899 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Temporary Warehouse for Storage of Construction Materials, Carpets and Porcelains with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office for period of 3 years (**Plan A-1a**). According to the covering Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves 6 previously approved applications (No. A/YL-TYST/237, 361, 429, 566, 741 and 893) for the same use as the current application (**Plan A-1b**). The last application (No. A/YL-TYST/893) for renewal of planning approval for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 1.6.2018. However, the planning permission was revoked on 4.10.2020 due to non-compliance with time-limited approval conditions on submission and implementation of fire service installations (FSIs) proposal. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with same site layout and development parameters albeit

with shorter operation hours.

- 1.3 According to the applicant, the proposed warehouse is for storage of construction materials (mainly sanitary wares), carpets and porcelains. No open storage, repairing, dismantling, cleaning and other workshop activities will be carried out at the Site. Furthermore, no heavy goods vehicles exceeding 24 tonnes will be allowed to enter/park at the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal, as-built drainage facilities and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the previously approved applications and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/893 (a)	Current Application No. A/YL-TYST/1053 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Materials, Carpets and Porcelains with Ancillary Office for a Period of 3 Years		---
Site Area	About 899 m ²		---
Total Floor Area (Non-domestic)	About 638 m ²		---
No. and Height of Structures	3 <ul style="list-style-type: none"> • one for warehouse with ancillary office (7m, 1 storey) • two for meter room (3m, 1 storey) 		---
No. of Parking and Loading/ Unloading Spaces	1 (for medium goods vehicle) (11m x 3.5m)		---
Operation Hours	9:00 a.m. to 6:00 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

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on **(Appendix I)** 25.9.2020
 - (b) Further Information (FI) received on 19.10.2020 **(Appendix Ia)** providing a FSIs proposal and justifications for non-compliance with approval conditions of the last application.
[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 and the FI **(Appendices I and Ia)**. They can be summarised as follows:

- (a) The Site was the subject of previous planning permissions for the same use as the current application since 2005. Most of the approval conditions imposed to the last application (No. A/YL-TYST/893) had been complied with, except for the submission and implementation of FSIs proposal. The applicant had submitted FSIs proposals for compliance with the approval conditions but it was found unacceptable by the Director of Fire Services (D of FS).
- (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), as the Site falls within Category 1 areas.
- (c) The temporary proposal would not jeopardise the long-term planning intention of the area. A number of warehouse 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 proposal is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in Tong Yan San Tsuen.
- (d) There will be minimal 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 notice to the Shap Pat Heung 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 involves 6 previously approved applications (No. A/YL-TYST/237, 361, 429, 566, 741 and 893) for the same use as the current application covering different extents of the Site. 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/237, 361, 429, 566 and 741 were all approved with conditions each for a period of 3 years by the Committee between 2004 and 2015, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/YL-TYST/361 and 429 were revoked in 2008 and 2011 respectively due to non-compliance with time-limited approval conditions.

- 5.3 The last application (No. A/YL-TYST/893) for renewal of planning approval for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office was approved with conditions for a period of 3 years by the Committee on 1.6.2018 mainly on similar considerations as those stated in paragraph 5.2 above. However, the planning permission was revoked on 4.10.2020 due to non-compliance with time-limited approval conditions on submission and implementation of FSIs proposal.
- 5.4 Compared with the last application (No. A/YL-TYST/893), the current application is submitted by the same applicant for the same use on the same site with same site layout and development parameters albeit with shorter operation hours.

6. Similar Applications

- 6.1 A total of 76 similar applications for various temporary warehouse with or without open storage and/or ancillary uses in the “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 76 similar applications, 73 were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 21 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019, mainly on the grounds, amongst others, that approval of applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, application No. A/YL-TYST/1000 for temporary warehouse for storage of construction materials and household materials with ancillary office for a period of 3 years, application No. A/YL-TYST/1019 for temporary warehouse for storage of construction materials and exhibition materials for a period of 3 years, application No. A/YL-TYST/1046 for temporary warehouse for storage of exhibition materials, furniture, construction materials, vehicle parts and electronic parts for a period of 3 years, and application No. A/YL-TYST/1054 for renewal of planning approval for temporary warehouse for storage of documents and office supplies for a period of 3 years within the “U” zone on the OZP will also be considered at this meeting (**Plan A-1a**).

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

- 7.1 The Site is:
- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1, Plans A-2 and A-3**); and
 - (b) paved and currently occupied by the applied use without valid planning permission (**Plan A-4**).

- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) comprise predominately open storage/storage yards and warehouses intermixed with scattered residential structures, a vehicle repair workshop, a logistics centre, a refuse collection point and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one to its immediate northeast;
 - (c) to the further northeast of the Site are areas zoned “Residential (Group C)” and “Village Type Development” on the OZP;
 - (d) to the southeast of the Site is a nullah flanked by Kung Um Road and Pak Sha Shan Road as well as an area zoned “Other Specified Uses” annotated “Rural Use” on the draft Tai Tong OZP No. S/YL-TT/17; and
 - (e) except for eight warehouses operating with valid planning permissions (No. A/YL-TYST/889, 904, 916, 932, 941, 972, 1004 and 1012) and a vehicle repair workshop in the vicinity of the Site, the other warehouses, open storage/storage yards and logistics centre in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 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.
- 8.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (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.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comment, where relevant, are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises an Old Schedule Agricultural Lot 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. 1241 in DD. 119 is covered by Short Term Waiver (STW) No. 3193 to permit structures erected thereon for the purpose of

“Warehouse with Ancillary Office”.

- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to her office for modification of the STW conditions. 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

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

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

9.1.4 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 the immediate northeast 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.

- (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 Use” (Code of Practice) to minimise any potential environmental nuisances.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development.
- (b) Based on the drainage proposal (**Drawing A-4**) enclosed in the application (**Appendix I**), apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TYST/893.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and 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

9.1.6 Comments of the D of FS:

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) The applicant should be reminded of the detailed comments on the submitted FSIs proposal at **Appendix V**.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.8 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 falls within an area partly zoned “Amenity” (“A”) and partly 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.

9.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, based on the preliminary project boundary of the proposed YLS Development, 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.

District Officer’s Comments

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 6.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual questioning whether approval of the application would hinder the long-term developments of the area (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area partly zoned “A” and partly shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The surrounding areas comprise predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application 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 to its immediate northeast) (**Plan A-2**), 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 12.2 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.
- 11.4 The Site involves 6 previously approved applications for the same use as the current application. The last application (No. A/YL-TYST/893) was approved with conditions for a period of 3 years by the Committee on 1.6.2018. Subsequently, the planning permission was revoked on 4.10.2020 due to non-compliance with time-limited approval conditions on submission and implementation of FSIs proposal. The current application is submitted by the same applicant with same site layout and the Site is currently occupied by the applied use. Nevertheless, the applicant has submitted FSIs proposal for the current application (**Drawings A-5**) and D of FS has no in-principle objection to the current application. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.
- 11.5 Given that six previous approvals for the same use have been granted to the Site and 73 similar applications have been approved in the “U” zone since 2015,

approval of the current application is generally in line with the Committee's previous decisions. There were three similar applications in the subject "U" zone rejected mainly on the grounds, amongst others, that approval of the 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. While the last planning permission covering the Site was revoked due to non-compliance with approval conditions, based on the considerations in paragraph 11.4 above, sympathetic consideration may be given to the current application.

- 11.6 There was one public comment received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office could be tolerated for a period of 3 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 3 years until 20.11.2023. 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 heavy goods vehicles exceeding 24 tonnes, 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of planning

approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.2.2021;

- (h) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.2.2021;
- (i) in relation to (h) above, the implementation of the 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 20.5.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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
- (k) if any of the above planning conditions (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**.

- 12.3 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 development would not generate adverse environmental impact on the surrounding areas.

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 annex and plans received on 25.9.2020
Appendix Ia	FI received on 19.10.2020
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar Applications in the "U" zone on the OZP since 2015

Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Proposal
Drawing A-4	As-Built Drainage Plan
Drawing A-5	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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**