

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1003

- Applicant** : Cosmos Gem Limited represented by PlanArch Consultants Limited
- Site** : Lots 366 RP, 369 RP (Part), 370 RP (Part), 371 S.A (Part), 371 S.B (Part), 372 S.A, 372 S.B, 373, 374, 375 RP, 376, 377, 378, 379, 380, 381 RP (Part), 458 (Part), 459 (Part), 460, 461, 462, 463, 464, 465, 466 (Part), 469 (Part), 470 (Part), 471(Part), 1323 (Part), 1324, 1325 (Part), 1337, 1338, 1339, 1340 (Part), 1341, 1342, 1344 (Part), 1345 (Part), 1346 (Part), 1347 (Part), 1349 (Part), 1350 (Part), 1351 (Part), 1353 (Part), 1354, 1355, 1356 S.A, 1356 S.B, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365 (Part), 1366 (Part), 1367 RP (Part), 1369 S.A, 1369 S.B, 1369 S.D, 1370 (Part), 1372 (Part), 1373, 1387 (Part), 1388, 1389, 1523 (Part), 1524, 1525, 1532 (Part), 1533 S.A, 1533 S.B, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544 (Part), 1592 (Part), 1593, 1613 S.C (Part) and 1614 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 50,500 m² (about) (including about 2,100 m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
- Zoning** : “Undetermined” (“U”)
- 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 to use the application site (the Site) for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is mainly occupied by the applied use

without valid planning permission and partly used for agricultural purpose and vacant (**Plans A-2, A-4a to A-4d**).

- 1.2 The Site involves 9 previous applications (No. A/YL-TYST/27, 141, 153, 265, 266, 370, 519, 665 and 827) for various temporary waste recycling facilities or open storage uses with or without ancillary workshop (**Plan A-1a**). The last application (No. A/YL-TYST/827) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 17.2.2017. All the approval conditions had been complied with and the permission had lapsed on 18.2.2020. Compared with the last application, the current application is submitted by the same applicant for the same use on a smaller site with different site layout and development parameters.
- 1.3 According to the applicant, construction machinery (including tower crane parts and excavators) and materials (including metal bars, bricks and bamboos), recycling materials (including metal, plastic and paper) and used electrical appliances will be stored at the Site. Ancillary workshop activities, i.e. cutting, sorting and packaging of recycling materials, will take place at structures No. 1, 7, 12, 16, 19, 27, 28, 33 and 34 (**Drawing A-2**). No storage/handling of used electrical appliances will take place outside the concrete-paved covered structures, and 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 pledges to provide and maintain all existing/proposed trees/drainage facilities within the Site at his own expense, and to allow users of affected land parcels (**Plan A-2**) to access through the Site. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previous Approved Application No. A/YL-TYST/827 (a)	Current Application No. A/YL-TYST/1003 (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	52,950 m ² (about)	50,500 m ² (about)	-2,450 m ² (-4.6%)
Total Floor Area (non-domestic)	8,801 m ² (about)	6,055.65 m ² (about)	-2,745.35 m ² (-31.2%)
No. and Height of Structures	53 • for ancillary workshop, office and shelter (2-6m, 1-2 storey(s))	51 • for ancillary workshop, office and shelter (2.6-8m, 1-2 storey(s))	-2 (- 3.8%)
No. of Parking Space	Nil		---

No. of L/UL Space	26 (16m x 3.5m) (for medium/heavy goods vehicles (HGVs) and container vehicles)	31 (16m x 3.5m) (for medium/HGVs and container vehicles, or smaller vehicles)	+5 (+19.2%)
Operation Hours	7:00 a.m. to 7:00 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 received on 2.1.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) received on 13.1.2020 clarifying the proposed operation **(Appendix Ib)**
- (d) FI received on 11.2.2020 providing traffic generation data and clarifications on the access and parking arrangement **(Appendix Ic)**
- (e) FI received on 10.3.2020 providing further traffic generation data and clarifications on the access arrangement and the proposed operation **(Appendix Id)**
- (f) FI received on 20.3.2020 providing further clarification on the proposed operation and replacement pages of the Application Form **(Appendix Ie)**
[(c) to (f) are accepted and exempted from publication and recounting requirements]

1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 21.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. Again, the meeting on 30.3.2020 has been rescheduled and the application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in Section 4 of the Supplementary Planning Statement at **Appendix Ia** and the FI at **Appendices Ib to Ie**. They can be summarised as follows:

- (a) The Site was the subject of previous planning permissions. All planning conditions imposed to the previous applications have been complied with. Due to a change in business operation, the site boundary has now been revised. There is no change in planning circumstances since the approval of the last application, hence favourable considerations should be given to the current application.
- (b) The Site is ideal for the proposal as it is large in size, and provides ample headroom and space for L/UL spaces for HGVs. Furthermore, according to the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses.

- (c) The proposal is in line with the planning intention of the “U” zone and will not frustrate the long-term use of the area. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment.
- (d) There are some active farmland within the Site (**Plan A-4b**). The applicant has no intention to terminate the agricultural use, which has co-existed with the open storage use since 1998. The farmers also have no objection to the open storage use at the Site.
- (e) No adverse traffic, environmental, visual, landscape and drainage impacts arising from the proposal are envisaged. The Site has been occupied by open storage use and has served various heavy vehicles over the decades, yet no related complaint has been received. Also, the development would not generate queuing of traffic outside the Site and adequate space for manoeuvring of vehicles will be provided. Relevant environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) will be followed.

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 a notice of the application outside the Site and published notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F) are relevant to the application. The Site falls within Category 1 areas 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

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves 9 previous applications (No. A/YL-TYST/27, 141, 153, 265, 266, 370, 519, 665 and 827) for various temporary waste recycling facilities or open storage uses with or without ancillary workshop covering different extents of the Site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 Out of these 9 previous applications, two applications (No. A/YL-TYST/141 and 266) were rejected by the Board on review in 2001 and 2006 respectively. The

former application for temporary open storage of construction machinery and materials for a period of 3 years was rejected mainly on the consideration that there was insufficient information to demonstrate that the development would not generate adverse environmental and drainage impacts. The latter application for temporary waste recycling facilities was rejected mainly on the considerations that the development was incompatible with the nearby residential structures; approval of the application would set an undesirable precedent; and there was insufficient information to demonstrate that the development would not generate adverse environmental impacts.

- 6.3 Application No. A/YL-TYST/27 for open storage of construction materials, application No. A/YL-TYST/153 for temporary open storage of construction machinery and materials, applications No. A/YL-TYST/265 and 370 for temporary open storage of construction machinery and materials and recycling materials, and applications No. A/YL-TYST/519 and 665 for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop activities were all approved with conditions for a period ranging from 2 to 3 years by the Committee between 1998 and 2014. The applications were approved mainly on the considerations that the proposal was generally in line with the then TPB PG-No. 13 (or its later version); the development was not incompatible with the surrounding uses in the subject “U” zone; 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.
- 6.4 The last application (No. A/YL-TYST/827) for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop was approved with conditions for a period of 3 years by the Committee on 17.2.2017 mainly on similar considerations as those stated in paragraph 6.3 above. All the approval conditions had been complied with and the permission had lapsed on 18.2.2020.
- 6.5 Compared with the last application, the current application is submitted by the same applicant for the same use on a smaller site with different site layout and development parameters.

7. Similar Applications

- 7.1 There are 145 similar applications for various types of temporary open storage uses with or without warehouse and/or ancillary workshop/site office uses in this part of the “U” zone considered by the Committee or the Board on review since 17.10.2008. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the 145 similar applications, 143 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, planning permissions for 32 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining two applications (No. A/YL-TYST/542 and 564) were rejected by the Committee in 2011 and the Board on review in 2012 respectively mainly on the

reason, amongst others, that approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.

- 7.4 For Members' information, application No. A/YL-TYST/1001 for temporary open storage of construction machinery and materials with ancillary workshop and office for a period of 3 years, application No. A/YL-TYST/1002 for proposed temporary open storage of metal, scrap metal and paper with ancillary workshop for a period of 3 years and application No. A/YL-TYST/1005 for temporary open storage of construction machinery, construction materials and ancillary office and repair workshop for a period of 3 years within the subject "U" zone on the OZP will also be considered at this meeting (**Plan A-1a**).

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

8.1 The Site is:

- (a) accessible via a short local track leading from Kung Um Road to its east (**Drawing A-1, 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 partly occupied by agricultural land (**Plan A-4b**) and vacant.

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, workshops, vehicle services, construction sites, a social welfare facility (residential care home for persons with disabilities), parking of vehicles, orchards, graves, shrubland, agricultural land and vacant land/structures;
- (b) several residential structures are located in its immediate surroundings;
- (c) to its east across a nullah flanked by Kung Um Road and Kiu Hing Road is an area zoned "Other Specified Uses" annotated "Rural Use" on the approved Tai Tong Outline Zoning Plan No. S/YL-TT/16; and
- (d) except for the aforementioned social welfare facility, four warehouses and six open storage/storage yards operating with valid planning permissions in the surrounding area and another open storage yard to its northeast, the other open storage/storage yards, warehouses, workshops, vehicle services and parking of vehicles in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

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. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL not covered by Short Term Tenancy (STT) No. 2863 (about 900m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Within the Site, GL and Lots 366 RP, 370 RP, 381 RP, 369 RP, 371 S.A, 371 S.B, 373, 375 RP, 378, 1533 S.A, 374, 460, 1323, 1324, 1369 S.B, 1369 S.D, 1532, 1325, 1337, 1338, 1339, 1340, 1341, 1544, 1342, 1344, 1364, 1524, 1533 S.B, 1537, 1538, 1539, 1540, 1541 and 1543 in D.D. 119 are currently covered by STT No. 2863 and Short Term Waivers (STWs) No. 4188, 4189, 4190, 4191, 4192, 4193, 4196, 4197, 4198, 4199, 4200, 4201, 4202, 4203, 4204, 4205, 4206, 4208, 4209, 4210, 4211, 4212 and 4213 respectively to permit structures erected thereon for the purpose of “Temporary Open Storage of Construction Machinery and Materials, Recycling Materials and Used Electrical Appliances with Ancillary Workshop Activities”; and Lots 458 and 1544 in D.D 119 are currently covered by STWs No. 4623 and 4562 to permit structures erected thereon for the purposes of “Temporary Open Storage of Building/Recycling Materials, Construction Machinery and Used Electrical/Electronic Appliances and Parts with Ancillary Packaging Activities” and “Temporary Open Storage and Storage of Used Private Vehicles” respectively.
- (d) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Furthermore, the applicant has to either exclude the GL without STT from the Site or apply for a formal approval prior to the actual occupation of the GL

without STT. 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

10.1.2 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 should 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.

10.1.3 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

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

- (a) DEP does not support the application as there are sensitive receivers of residential use 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) Three substantiated complaints concerning the Site were received in the past 3 years. A substantiated complaint related to landfilling activities at one of the subject lots (Lot 1323 in D.D. 119) was received in June 2017 ~~and enforcement action was taken by his department accordingly~~. Another 2 substantiated complaints related to coloured water observed at nullahs and open burning from an open storage site were received in January and June 2018 respectively. No enforcement action was taken for the 3 substantiated complaints as illegal activities were not spotted during the follow-up inspections. No further complaint was received in 2019.

- (c) Should the planning application be approved, the applicant should be advised to follow relevant mitigation measures and requirements in the latest Code of Practice to minimise any potential environmental nuisances to the surrounding areas.

Nature Conservation

10.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) She has no strong view on the application from nature conservation point of view as the Site has been hard-paved and occupied for the same applied use as the previous planning approval.
- (b) Should the application be approved, the applicant is advised to adopt good site practice and implement necessary measure to avoid affecting the watercourse within and in the vicinity of the Site.

Drainage

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

- (a) He has no objection in principle to the proposal given that the application is based on the previously approved application No. A/YL-TYST/827.
- (b) However, as there are changes to the Site (**Plan A-1b**), should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a Drainage Impact Assessment (DIA) Report Review and the implementation and maintenance of the drainage facilities proposed in the DIA Report for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Water Supplies

10.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

She has no objection to the application subject to the following comments:

- (a) Existing water mains will be affected (**Plan A-2**). A waterworks reserve (WR) within 1.5 metres from the centreline of the water main shall be provided to her department.
- (b) No structure shall be built or materials stored within this WR. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the WR or in the vicinity of the water main (**Plan A-2**).

- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
 - (iii) The good practice guidelines for open storage attached in **Appendix V** should be adhered to.
- (c) Moreover, having considered the nature of the open storage, an approval condition requiring the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be incorporated if the application is approved. To address this approval condition, the applicant is required to submit a valid fire certificate (FS 251) to his department for approval.
- (d) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.9 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 (BA) 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's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works

(UBW) under the BO and should not be designated for any proposed use under the application.

- (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

10.1.10 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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within areas zoned as “Special Residential - Public Rental Housing (with Commercial)” (“RSc”), “Residential - Zone 2 (with Commercial)” (“R2c”), “District Open Space” (“DO”), “Local Open Space” (“LO”), “Government” (“G”), “Other Specified Uses” annotated “Mixed Use” (“OU(MU)”), as well as areas 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.

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

- (a) He has no objection to the application.
- (b) The northern part of the Site falls within the boundary of YLS development - Stage 2, while the southern part of the Site falls within the boundary of YLS development - Stage 3.
- (c) The land resumption and clearance programme of the YLS development - Stage 2 is subject to Executive Council's authorisation on land resumption and Finance Committee's funding approval of the project. Land clearance operation for YLS development - Stage 2 is tentatively targeted to commence in 2024, while the implementation programme of the YLS development - Stage 3 is being formulated. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in the northern part of the Site in view of the planned YLS development - Stage 2.

District Officer's Comments

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

His office has not received any feedback from locals.

10.2 The following government departments have no comment to the application:

- (a) Director of Electrical and Mechanical Services (DEMS); and
- (b) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 10.1.2020 the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment (**Appendix VI**) was received from an individual raising concerns that the proposal represents inefficient use of land and questions when such uses would be relocated into high-rise, high-tech buildings.

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 3 years 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 generally intended for open storage use 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. While the Site falls within areas zoned as "RSc", "R2c", "DO", "LO", "G", "OU(MU)" as well as areas shown as 'Road' on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the proposed temporary

use for 3 years. As such, approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

12.2 The surrounding areas comprise predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity of the Site, the proposal is generally not incompatible with the surrounding uses in the subject “U” zone.

12.3 According to TPB PG-No. 13F, the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.4 The application is generally in line with TPB PG-No. 13F in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; there are no local objections on the proposal; and the technical concerns of relevant government departments could be addressed through the implementation of approval conditions.

12.5 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 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. While there have been three substantiated environmental complaints concerning landfilling, water contamination and open burning at the Site received in the past three years, no illegal activities were spotted by DEP during its follow-up inspections. Moreover, no further complaints have been received by DEP from 2019 onwards. Besides, 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 enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to keep the Site clean and tidy at all times and to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.

12.6 Given that 7 previous approvals for open storage uses have been granted to the Site and 143 similar applications have been approved in this part of the “U” zone since 2008, approval of the current application is generally in line with the Committee’s previous decisions. There are two previous applications rejected by the Board on review mainly on the considerations, amongst others, that there was insufficient information to demonstrate that the development would not generate adverse environmental and/or drainage impacts. In this regard, CE/MN, DSD has no in-principle objection to the current application and the potential environmental nuisance could be addressed by imposing approval conditions as stated in paragraph 12.5 above. There were also two similar applications in this part of the “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. However, such considerations are not applicable to the current application as all the approval conditions of the last application had been complied with.

12.7 There was one public comment raising concerns on the application received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 are relevant.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12, and having taken into account the public comment as summarised in paragraph 11, the Planning Department considers that the open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop could be tolerated for a period of 3 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 3 years until 26.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (g) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.11.2020;
- (h) 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 26.11.2020;

- (i) in relation to (h) 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 26.2.2021;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the provision of fire extinguisher(s) with valid fire certificate (FS 251) 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 7.7.2020;
- (l) the submission of 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 26.11.2020;
- (m) in relation to (l) 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 26.2.2021;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (j) 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
- (o) if any of the above planning conditions (g), (h), (i), (k), (l) or (m) 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 VII**.

13.3 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.

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 received on 2.1.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 13.1.2020
Appendix Ic	FI received on 11.2.2020
Appendix Id	FI received on 10.3.2020
Appendix Ie	FI received on 19.3.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications in this part of the “U” zone on the OZP since 17.10.2008
Appendix V	The Good Practice Guidelines for Open Storage Sites
Appendix VI	Public Comment Received During the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	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 to A-4d	Site Photos

**PLANNING DEPARTMENT
MAY 2020**