

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1021

<u>Applicant</u>	: Ms. YIU Chun Tai represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1023 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 401 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Temporary Warehouse for Storage of Furniture 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 furniture for a period of 3 years (**Plan A-1**). 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, A-4a and A-4b**). The Site does not involve any previous application.
- 1.2 According to the applicant, the proposed warehouse is for storage of furnitures including beds and mattresses. No workshop activities will be carried out at the Site. The applicant undertakes that all proposed drainage facilities within the Site will be constructed and maintained at her own expense. Furthermore, no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 401 m ²
Total Floor Area (Non-domestic)	436 m ²
No. and Height of Structures	4 <ul style="list-style-type: none"> • one for warehouse (8m, 1 storey) • one for site office (8m, 2 storeys) • one for rain shelter (8m, 1 storey) • one for toilet (3m, 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

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

- (a) Application Form with annexes and plans received on 5.5.2020 (**Appendix I**)
- (b) Supplementary Information dated 7.5.2020 clarifying the site area with replacement pages of the Application Form (**Appendix Ia**)
- (c) Further Information (FI) dated 11.6.2020 clarifying the proposed operation (**Appendix Ib**)
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in Part 7 of the Application Form and the FI at **Appendices I** and **Ib** respectively. They can be summarised as follows:

- (a) The proposal was in line with the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), as the Site fell within Category 1 areas.
- (b) The proposal of temporary nature would not jeopardise the long-term planning intention of the area. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site, and their planning circumstances were similar to that of the current application. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in Tong Yan San Tsuen.
- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal. The proposed development would not generate queuing of traffic outside the Site, and adequate space for loading/unloading activities and manoeuvring of vehicles will be provided.

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 sending the 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 Application

There is no previous planning application covering the Site.

6. Similar Applications

6.1 A total of 121 similar applications for various temporary warehouse/storage with or without open storage and/or ancillary site office uses in this part of the “U” zone had been considered by the Committee since 17.10.2008. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

6.2 Out of the 121 similar applications, 117 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 44 of them were revoked due to non-compliance with approval conditions.

6.3 The remaining four applications (No. A/YL-TYST/478, 922, 926 and 943) were either rejected by the Board on review or by the Committee between 2010 and 2019 respectively, mainly on the grounds, amongst others, that 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.

6.4 For Members’ information, application No. A/YL-TYST/1009 for temporary warehouse for storage of food and electronic goods 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 and application No. A/YL-TYST/1022 for temporary warehouse for storage of vehicle, vehicle parts and electronic goods for a period of 3 years within the subject “U” zone on the OZP will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1** and **Plans A-2** and **A-3**);
- (b) paved and fenced off; and
- (c) currently occupied by the applied use without valid planning permission.

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

- (a) comprise predominately warehouses and open storage/storage yards intermixed with vehicle repair workshops, scattered residential structures, agricultural land and vacant structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate southeast; and
- (c) except for three warehouses and one open storage yard in the vicinity operating with valid planning permissions (No. A/YL-TYST/891, 917, 936 and 966), the other warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. 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.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application 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) Should planning approval be given to the application, the lot owner(s) will need to apply to her office for permitting the structures to be erected or to 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. 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) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) 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 from the public drainage point of view and no adverse comment on the

submitted drainage proposal (**Drawing A-3**). Nevertheless, the applicant should be reminded to note the following:

- (i) The applicant should implement the drainage facilities on site in accordance with the agreed drainage proposal.
 - (ii) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
 - (iii) The development would neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.
 - (iv) The applicant should consult DLO/YL, LandsD and seek consent from relevant lot owners for any works to be carried out outside his lot boundary before commencement of the drainage works.
- (b) Should the Board consider the application acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (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. The applicant should 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 FSIs to be installed should be clearly marked on the layout plans.
- (c) 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

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 (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.

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 "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation". According to the Revised Recommended Outline

Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area zoned as “District Open Space” (“DO”).

- (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 its detailed implementation programme with phasing and packaging of works for YLS Development 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 12.5.2020, 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 (**Appendix III**) questioning the long-term development plans for the area.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of furniture for a period of 3 years at a site zoned “U” on the OZP. The proposal is not in conflict with the planning intention of the “U” zone which is 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. Whilst the Site falls within an area zoned “DO” 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 proposed 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 of the Site, the development is generally not incompatible with the surrounding uses in the subject “U” zone.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. Adverse traffic, drainage and environmental impacts arising from the proposal are not envisaged. 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 Given that 117 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 were four 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 the Site does not involve any previous application.
- 11.5 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 11.4 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 furniture 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 26.6.2023. 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 workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the implementation of the accepted drainage proposal 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 26.12.2020;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 26.12.2020;
- (i) in relation to (h) 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 26.3.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning conditions (f), (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 IV**.

12.3 There is no strong reason to recommend rejection of the application.

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 annexes and plans received on 5.5.2020
Appendix Ia	Supplementary Information dated 7.5.2020
Appendix Ib	FI received on 11.6.2020
Appendix II	Similar Applications in this Part of the “U” zone on the OZP since 17.10.2008
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**