

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1030

- Applicant** : Wah Sang (China - Hong Kong) Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1343 (Part), 1344 (Part), 1345 (Part), 1349 (Part), 1351 (Part), 1353 (Part) in D.D. 119 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 3,046 m² (about) (including about 46 m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13 currently in force

Approved TYST OZP No. S/YL-TYST/12 at the time of submission
- Zoning** : “Undetermined” (“U”)
[No change to the “U” zone]
- Application** : Temporary Warehouse for Storage of Food and Electronic Goods 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 food and electronic goods for a 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, A-4a and A-4b**).
- 1.2 The Site involves 10 previous applications for temporary waste recycling facilities, warehouse and various open storage with or without ancillary uses (**Plan A-1b**). The last application (No. A/YL-TYST/868) for temporary warehouse for storage of construction materials was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017. However, the planning permission was revoked on 22.5.2020 due to non-compliance with time-limited approval condition on implementation of fire service installations (FSIs) proposal. Compared with the last application, the current application is submitted by the same applicant for

different warehouse use on the same site with similar site layout and development parameters.

- 1.3 According to the applicant, the proposed warehouse is for storage of food (such as milk powder and canned food) and electronic goods (such as brand new tablets, mobile phones and computers). No repairing, dismantling, spraying, cleansing, other workshop activities and storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or electronic waste will be carried out at the Site. Plans showing the vehicular access leading to the Site, site layout, as-built drainage facilities and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/868 (a)	Current Application No. A/YL-TYST/1030 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years	Temporary Warehouse for Storage of Food and Electronic Goods for a Period of 3 Years	Change in Stored Items
Site Area	About 3,046 m ² (including about 46 m ² of GL)		---
Total Floor Area (Non-domestic)	1,773 m ²	1,910 m ²	+137 m ² (+7.7%)
No. and Height of Structures	4 <ul style="list-style-type: none"> one for warehouse (11m, 1 storey) one for toilet (3m, 1 storey) one for pump room and water tank (5m, 1 storey) one for site office (3m, 1 storey) 	5 <ul style="list-style-type: none"> one for warehouse (11m, 1 storey) one for toilet (3m, 1 storey) one for pump room and water tank (3m, 1 storey) one for site office (6m, 2 storeys) one for guard room (6m, 2 storeys) 	+1 (+25%)
No. of Parking Space	Nil		---
No. of Loading/Unloading Space	1 (for medium/heavy goods vehicle) (11m x 3.5m)		---
Operation Hours	7:00 a.m. to 9:00 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 26.5.2020 (**Appendix I**)
 - (b) Further Information (FI) received on 11.6.2020 providing a FSIs proposal and justifications for non-compliance with approval condition of the previous application (**Appendix Ia**)
 - (c) FI received on 9.7.2020 responding to departmental comments (**Appendix Ib**)
 - (d) FI received on 10.7.2020 clarifying the proposed operation (**Appendix Ic**)
[(b) to (d) 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 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application 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 detailed in Part 7 of the Application Form and the FI (**Appendices I to Ic**). They can be summarised as follows:
- (a) The Site was the subject of previous planning permissions since 2001. All the approval conditions imposed to the last application (No. A/YL-TYST/868) had been complied with, except for the implementation of FSIs proposal. Since additional structures have been erected after approval of the last application, the built layout did not tally with that of the accepted FSIs proposal and hence the condition could not be complied with. The current application is submitted to rectify the situation and to effect the proposal for a different warehouse use.
 - (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 is in line with the planning intention of the “U” zone and would not jeopardise the long-term planning intention of the area. A number of open storage yards 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 open storage purpose in TYST.
 - (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal. The 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 site notice and sending notice to the Ping Shan Rural Committee and Shap Pat Heung Rural Committee by registered post. 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. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves 10 previous applications (No. A/YL-TYST/27, 141, 153, 265, 266, 370, 519, 665, 827 and 868) for temporary waste recycling facilities, warehouse and various open storage with or without ancillary uses 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 Out of these 10 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 were potential 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; potential adverse environmental impacts; and approval of the application would set an undesirable precedent.
- 5.3 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, 665 and 827 for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop were all approved with conditions for a period ranging from 2 to 3 years by the Committee between 1998 and 2017. The applications were approved mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13 (or its latter versions, for applications involving open storage use only); not incompatible with the surrounding uses; would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions.
- 5.4 The last application (No. A/YL-TYST/868) for temporary warehouse for storage of construction materials was approved with conditions for a period of 3 years by the Committee on 22.12.2017 mainly on similar considerations as those stated in paragraph 5.3 above. However, the planning permission was revoked on

22.5.2020 due to non-compliance with time-limited approval condition on the implementation of FSIs proposal.

- 5.5 Compared with the last application, the current application is submitted by the same applicant for different warehouse use on the same site with similar site layout and development parameters.

6. Similar Applications

- 6.1 A total of 75 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 75 similar applications, 72 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 20 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 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/1038 for temporary open storage and warehouse for storage of furniture, exhibition materials, construction materials/machinery and household detergent 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-4b)

- 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**);
 - (b) paved and fenced off; and
 - (c) currently occupied by the applied use without valid planning permission (**Plans A-4a and A-4b**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) comprise predominately open storage/storage yards with valid planning permissions (No. A/YL-TYST/953 and 1003) intermixed with residential structure, pond, orchard, agricultural land, graves, shrubland and vacant land/structures;
 - (b) there is a residential structure located about 40m to its east;

- (c) to the south of the Site is an area zoned “Residential (Group C)” on the OZP; and
- (d) to the northwest of the Site is a nullah flanked by Lam Tai East Road and Lam Tai West Road.

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 comments, 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 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) Within the Site, the GL and Lot No. 1344 in D.D. 119 are covered by Short Term Tenancy (STT) No. 2863 and Short Term Waiver (STW) No. 4205 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”.
 - (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STT/STW 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. 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 his 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 is a residential use in the vicinity (located about 40m to the east 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.

Nature Conservation

9.1.5 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 applied use as previously approved.
- (b) The applicant should adopt good site practice and implement necessary measure to avoid affecting the watercourses in the vicinity of the Site.

Drainage

9.1.6 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 submission enclosed in the application (**Drawing A-3** and **Appendix I**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/868.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/868 and the 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

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

- (a) He has no objection in principle to the proposal and the FSIs proposal (**Drawing A-4**) is considered acceptable.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.9 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 areas zoned

“District Open Space” (“DO”) and “Residential - Zone 2 (with Commercial)” (“R2c”).

- (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.

9.1.10 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

9.1.11 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 Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 2.6.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from an individual and a member of the Yuen Long District Council (YLDC). The individual questioned the long-term development plans for the area (**Appendix IV-1**). The member of the YLDC objected to the application on the grounds that there would be adverse sewerage, land contamination and traffic impacts on the surrounding areas; the rural character and living environment would be undermined; and approval of the application would encourage other similar applications (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of food and electronic goods 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 partly within areas zoned as “DO” and “R2c” 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 open storage/storage yards (**Plan A-2**). While there is a residential structure in the vicinity, 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, except DEP. DEP does not support the application as there is a sensitive receiver of residential use in the vicinity of the Site (located about 40m to its east) (**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 local concerns and the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development 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 10 previous applications with the last one (application No. A/YL-TYST/868) for a similar warehouse use which was approved with conditions by the Committee on 22.12.2017 for a period of 3 years. Subsequently, the planning permission was revoked on 22.5.2020 due to non-compliance with time-limited approval condition requiring implementation of the FSIs proposal. The current application is submitted by the same applicant with similar 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-4**) which has been accepted by D of FS. 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 resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.
- 11.5 Given that one previous approval for warehouse use has been granted to the Site and 72 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 two previous applications rejected by the Board

on review mainly on the considerations, amongst others, that there were potential 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. There were also three 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. While the last planning permission covering the Site was revoked due to non-compliance with approval condition, based on the considerations in paragraph 11.4 above, sympathetic consideration may be given to the current application.

- 11.6 There were two public comments raising concerns on/objecting to the application 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 comments mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of food and electronic goods 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 1.9.2023. 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 repairing, dismantling, spraying, cleansing, other workshop activities and storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or electronic waste, as proposed by the applicant, shall be carried out on the Site 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 drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the

satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2020;

- (g) the implementation of the accepted 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 1.3.2021;
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (f) or (g) 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 26.5.2020
Appendix Ia	FI received on 11.6.2020
Appendix Ib	FI received on 9.7.2020
Appendix Ic	FI received on 10.7.2020
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications in the "U" zone on the OZP since 2015

Appendices IV-1 and IV-2	Public Comments 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	As-built Drainage Plan
Drawing A-4	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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**