

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1037

- Applicant** : Merrily Development and Investment Company Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1449 (Part), 1450 (Part), 1453, 1454 (Part), 1458 (Part) and 1459 (Part) in D.D. 119, Yuen Long, New Territories
- Site Area** : 2,870 m² (about)
- 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
- Zonings** : “Open Space” (“O”) (about 54%) and area shown as ‘Road’ (about 46%) on the draft TYST OZP No. S/YL-TYST/13 currently in force

“Undetermined” (“U”) on the then approved TYST OZP No. S/YL-TYST/12 at the time of submission
- Application** : Proposed Temporary Warehouse for Storage of Furniture, Electronic Goods and Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of furniture, electronic goods and construction materials for a period of 3 years (**Plan A-1a**). The Site falls within an area partly zoned “O” (about 54%) and partly shown as ‘Road’ (about 46%) on the draft TYST OZP No. S/YL-TYST/13 currently in force. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. Furthermore, all uses or developments within area shown as ‘Road’ require planning permission from the Board. The Site is currently undergoing site formation works (**Plans A-2 and A-4**).
- 1.2 The Site involves 4 previous applications for various temporary open storage uses

(Plan A-1b). The last application (No. A/YL-TYST/908) for temporary open storage of metal, scrap metal and plastic with ancillary workshop was approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board on 17.8.2018. The planning permission was revoked on 17.11.2019 due to non-compliance with approval conditions. Compared with the last application, the current application is submitted by a different applicant for a different use with different site layout and development parameters, albeit on the same site.

- 1.3 According to the applicant, the proposed warehouse is for storage of furniture (including beds, desks and tables), packed electronic goods (including tablets, mobile phones and computers) and construction materials (including pipes, tiles and sanitary wares). No dismantling, cleaning, repairing, spraying, other workshop activities and storage of used electronic goods and recyclable materials will be carried out at the Site. The applicant undertakes that all proposed drainage facilities within the Site will be constructed and maintained at its own expense. Furthermore, no heavy goods vehicles exceeding 24 tonnes, including container tractor/trailer, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the application are summarised as follows:

Site Area	About 2,870 m ²
Total Floor Area (Non-domestic)	2,198 m ²
No. and Height of Structures	4 <ul style="list-style-type: none"> • one for warehouse (10m, 1 storey) • one for site office (8m, 2 storeys) • one for guard room (3.5m, 1 storey) • one for toilet (3.5m, 1 storey)
No. of Parking Space	Nil
No. of Loading/ Unloading Spaces	2 (for medium goods vehicle) (11 m x 3.5 m)
Operation Hours	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annexes and plans received on 1.6.2020 (**Appendix I**)
 - (b) Further Information (FI) received on 9.7.2020 responding to departmental comments (**Appendix Ia**)
 - (c) FI received on 14.7.2020 clarifying the proposed operation (**Appendix Ib**)
[(b) and (c) 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 Ib**). They can be summarised as follows:

- (a) The Site has been subject to planning permissions since 2012. The temporary proposal would not jeopardise the long-term planning intention. A number of open storage and port back-up uses have been approved by the Board in the vicinity of the Site, and their planning circumstances were similar to that of the current application. The development is not incompatible with these uses in the surroundings. Besides, there is a shortage of land for port back-up purpose in TYST.
- (b) 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 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 Shap Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 At the time of the submission of the application, the Site fell within an area zoned “U” on the then approved TYST OZP No. S/YL-TYST/12. Subsequently, the draft TYST OZP No. S/YL-TYST/13 was gazetted under section 5 of the Town Planning Ordinance (the Ordinance). The Site now falls within an area partly zoned “O” (about 54%) and partly shown as ‘Road’ (about 46%) on the draft TYST OZP No. S/YL-TYST/13 currently in force (**Plan A-1a**).
- 4.2 The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves four previous applications (No. A/YL-TYST/615, 786, 818 and 908) for temporary open storage of metal (for the last two applications only), scrap metal and plastic with ancillary workshop 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 Applications No. A/YL-TYST/615 and 786 for temporary open storage of scrap metal and plastic with ancillary workshop were approved with conditions each for a period of 3 years by the Committee in 2012 and 2016 respectively, mainly on the considerations that the proposals were generally in line with the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13) (or its later version); not incompatible with the surrounding uses; 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. However, the planning permissions were revoked in 2014 and 2017 respectively due to non-compliance with the approval conditions.
- 5.3 Applications No. A/YL-TYST/818 and 908 for temporary open storage of metal, scrap metal and plastic with ancillary workshop were approved with conditions each for a period of 3 years by the Committee in 2016 and 2018 respectively, mainly on similar consideration as those specified in paragraph 5.2 above. However, the planning permissions were revoked in 2018 and 2019 respectively due to non-compliance with approval conditions.
- 5.4 Compared with the last application (No. A/YL-TYST/908), the current application is submitted by a different applicant for a different use with different site layout and development parameters, albeit on the same site.

6. Similar Applications

There are three similar applications (No. A/YL-TYST/770, 771 and 991) for various temporary warehouse with or without open storage uses within/straddling the subject “O” zone¹ since 2015. They were all approved with conditions by the Committee between 2015 and 2019, mainly on similar considerations that the developments were generally not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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

8.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east;

¹ All the similar applications were approved prior to the rezoning of the sites to “O” on the draft TYST OZP No. S/YL-TYST/13.

- (b) largely paved and fenced off; and
- (c) currently undergoing site formation works.

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominantly open storage/storage yards and warehouses with scattered residential structures, workshops, parking of vehicles, chicken sheds, ponds, agricultural land, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate southwest; and
- (c) except for two open storage yards (with/without vehicle repair workshop) and three warehouses operating with valid planning permissions (No. A/YL-TYST/925, 1008, 884, 902 and 986 respectively) in the vicinity and another open storage yard to the east of the Site, the other warehouses, open storage/storage yards, workshops, parking of vehicles and chicken sheds in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

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 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, Lots 1449, 1453, 1454 and 1458 in D.D. 119 are currently covered by Short Term Waivers (STWs) No. 4883 to 4886 respectively to permit structures erected thereon for the purpose of "Temporary Open Storage of Metal, Scrap Metal and Plastic with Ancillary Workshop".
- (c) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the 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 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 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.

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

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

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located to the immediate southwest of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.
- (c) Should the application be approved, the applicant should be advised to follow 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 on the surrounding areas.

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 proposed development from public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (**Drawing A-4**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix V**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal for the development 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. Furthermore, the applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

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

Long-Term Development

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, PlanD (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 mainly zoned “District Open Space” (“DO”) and partly shown as ‘Road’.

- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) He has no objection to the application.
- (b) The Site falls within the boundary of YLS development - Stage 2 Phase 2. The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. 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 view of the planned YLS development - Stage 2 Phase 2.

District Officer’s Comments

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

His office has not received any comment from locals.

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);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 9.6.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from a member of Yuen Long District Council (YLDC), a village representative of Muk Kiu Tau Tsuen and an individual. The member of YLDC objected to the application mainly on the grounds that there would be land contamination and adverse traffic impacts on the surrounding areas; the proposal would undermine the rural environment; and approval of the application would encourage other similar applications and brownfield proliferation (**Appendix IV-1**). The village representative of Muk Kiu Tau Tsuen

objected to the application mainly on the ground that the proposal with high traffic flow would lead to traffic congestion on Kung Um Road and hence affect the nearby residents (**Appendix IV-2**). The individual questioned the long-term development plans for the area and suggested that warehouses should be relocated into purpose-designed buildings (**Appendix IV-3**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of furniture, electronic goods and construction materials for a period of 3 years. Subsequent to the receipt of the application by the Board, the draft TYST OZP No. S/YL-TYST/13 covering the Site was gazetted under section 5 of the Ordinance on 10.7.2020. The Site currently falls within an area partly zoned “O” (about 54%) and partly shown as ‘Road’ (about 46%) on the draft TYST OZP No. S/YL-TYST/13.
- 11.2 The “O” zone on the draft TYST OZP No. S/YL-TYST/13 is intended primarily for the provision of outdoor open-air public space. Whilst the development is not in line with the planning intention of the “O” zone and falls within an area shown as ‘Road’, PM(W), CEDD has no objection to the proposed temporary use for 3 years as the Site is not expected to be resumed within the next 3 years for Stage 2 Phase 2 YLS Development. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.3 The surrounding areas comprise predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.4 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located to its immediate southwest) (**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 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 in order to minimise any potential environmental impact on the surrounding areas.
- 11.5 Given that three similar applications have been approved in the “O” zone since 2015, approval of the current application is in line with the Committee’s previous decisions.
- 11.6 There were three public comments received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 as summarised in paragraph 10, the Planning Department considers that the proposed temporary warehouse for storage of furniture, electronic goods and construction materials 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 dismantling, cleaning, repairing, spraying, other workshop activities and storage of used electronic goods and recyclable materials, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no heavy goods vehicle exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (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 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 1.3.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 1.3.2021;
- (j) in relation to (i) 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 1.6.2021;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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
- (l) if any of the above planning conditions (g), (i) or (j) 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 reasons for rejection are suggested for Member's reference:

- (a) the development is not in line with the planning intention of the "O" zone, which is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and
- (b) 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 annexes and plans received on 1.6.2020
Appendix Ia	FI received on 9.7.2020
Appendix Ib	FI received on 14.7.2020
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the subject "O" Zone on the TYST OZP since 2015

Appendices IV-1 to IV-3	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	Landscape and Tree Preservation Proposal
Drawing A-4	Drainage Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**