RNTPC Paper No. <u>A/YL-TYST/1048</u> For Consideration by the Rural and New Town Planning Committee on 23.10.2020

APPLICATION FOR RENEWAL OF PLANNING APPROVAL FOR TEMPORARY USE UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1048

<u>Applicant</u>	:	Mr. FONG Chin-ho	
<u>Site</u>	:	Lots 776 (Part), 1878 (Part), 1879(A)&1879(B) (Part), 1943 (Part), 1944 (Part) and 1945 (Part) in D.D. 117 and Adjoining Government Land (GL), Kung Um Road, Yuen Long, New Territories	
<u>Site Area</u>	:	957 m ² (about) (including about 53 m ² of GL (about 5.5%))	
Lease	:	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	:	Draft Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/13	
Zoning	:	"Other Specified Uses" annotated "Sewage Treatment Works" ("OU(STW)") [restricted to a maximum building height of 35mPD]	
<u>Application</u>	:	Renewal of Planning Approval for Temporary Open Storage of Metal Goods with Ancillary Warehouse for a Period of 3 Years	

1. <u>The Proposal</u>

- 1.1 The applicant seeks renewal of planning approval for temporary open storage of metal goods with ancillary warehouse for a period of 3 years at the application site (the Site) (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the "OU(STW)" zone, the covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of three years within the subject "OU(STW)" zone 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. The Site is currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/860 until 24.11.2020 (**Plans A-2** and **A-4**).
- 1.2 The Site involves 8 previous applications for various temporary open storage with/without ancillary warehouse uses (**Plan A-1b**). The last application (No. A/YL-TYST/860) 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 24.11.2017. All the approval

conditions under the last application have been complied with and the planning permission is valid until 24.11.2020. Compared with the last application, the current application was submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

- 1.3 According to the applicant, the proposal is for open storage of bulky metal goods (such as scrap metals and metal boxes) with ancillary warehouse for storage of smaller items (such as copper wires and tools). No dismantling, repairing, cleansing, paint-spraying, other workshop activities and storage/handling (including loading and unloading) of used electrical appliances. computer/electronic parts or electronic waste will be carried out at the Site. Furthermore, no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, will be allowed to enter/park at the Site. Plans showing the vehicular access leading to the Site, site layout and fire service installations (FSIs) proposal submitted by the applicant are at Drawings A-1 to A-3 respectively.
- 1.4 The major development parameters of the previously approved application No. A/YL-TYST/860 are the same as the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/860	Current Application No. A/YL-TYST/1048
Applied Use	Temporary Open Storage of Metal Goods with Ancillary Warehouse for a Period of 3 Years	
Site Area	957 m ² (about) (including about 53 m ² of GL)	
Total Floor Area (Non-domestic)	About 63 m ²	
No. and Height of Structures	 one for site office, lounge a (4.88m, 2 storeys) two for storage (2.44m, 1 st 	C
No. of Parking Space	Nil	
No. of Loading/	1	
Unloading Space	(for light goods	s vehicle)
Operation Hours	8:00 a.m. to 6:00 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 w	n plans received on 25.8.2020	(Appendix I)
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- (b) Supplementary Information received on 29.8.2020 (Appendix Ia) clarifying the proposed operation
- (c) Further Information (FI) received on 16.9.2020 (Appendix Ib) providing a FSIs proposal with fire certificate
- (d) FI received on 29.9.2020 clarifying the proposed (Appendix Ic) operation

2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Supplementary Information and FI (**Appendices I** to **Ic**). They can be summarised as follows:

(a) The applicant will continue to comply with all approval conditions under the previous approval (No. A/YL-TYST/860).

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. <u>Town Planning Board Guidelines</u>

- 4.1 On 27.3.2020, the Board promulgated the revised "Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13F). The Site falls within Yuen Long South (YLS) Development Area. The criteria for New Development Areas (NDAs) (including potential development areas) under the revised Guidelines are applicable. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No. 34C) are also relevant to the application. The relevant assessment criteria are attached at **Appendix III**.

5. <u>Background</u>

The Site is currently not subject to planning enforcement action.

6. <u>Previous Applications</u>

6.1 The Site involves 6 approved previous applications (No. A/YL-TYST/118, 503, 647, 672, 828 and 860) and 2 rejected previous applications (No. A/YL-TYST/34 and 48) for various temporary open storage with/without ancillary warehouse uses covering different extents of the Site. Details of the previous applications are

summarised in Appendix IV and the boundaries of the sites are shown on Plan A-1b.

Rejected Applications (2 Cases)

6.2 Application No. A/YL-TYST/34 for temporary open storage of construction materials and application No. A/YL-TYST/48 for temporary open storage of construction materials and small-scale machinery both for a period of 12 months were rejected by the Committee in 1998, mainly on the grounds of not in line with the planning intention of the then "Green Belt" ("GB") zone and the then TPB PG-No. 13; incompatibility with the surrounding rural uses; potential adverse drainage impacts; insufficient information to demonstrate that the vehicular access arrangement for the site was satisfactory; and approval of the application would set an undesirable precedent.

Approved Applications (6 Cases)

- 6.3 Application No. A/YL-TYST/118 for temporary storage of construction materials, applications No. A/YL-TYST/503 and 647 for temporary open storage of metal goods with transfer warehouse and applications No. A/YL-TYST/672 and 828 for the same use as the current application were all approved with conditions by the Committee between 2000 and 2017 each for a period of 3 years. The applications were approved mainly on the considerations that the proposals were not in conflict with the planning intention of the then "Undetermined" ("U") zone; generally in line with the then 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 approvals for planning applications No. A/YL-TYST/647 and 828 were subsequently revoked in 2014 and 2017 respectively due to non-compliance with approval conditions.
- 6.4 The last application (No. A/YL-TYST/860) for the same use as the current application was approved with conditions by the Committee for a period of 3 years on 24.11.2017 mainly on similar considerations as those specified in paragraph 6.3 above. All the approval conditions under the last application have been complied with and the planning permission is valid until 24.11.2020.
- 6.5 Compared with the last application, the current application was submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. <u>Similar Applications</u>

There are 4 similar applications (No. A/YL-TYST/756, 790, 849 and 964) for various temporary open storage uses with/without warehouse and/or ancillary uses within the subject "OU(STW)" zone¹ on the OZP since 2015. They were all approved with conditions each for a period of three years by the Committee between 2015 and 2019, mainly on similar considerations that the developments were not incompatible with the

¹ All the similar applications were approved prior to the rezoning of the sites from "U" to "OU(STW)" on the subject OZP.

surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permission under application No. A/YL-TYST/756 was subsequently revoked in 2016 due to non-compliance with approval conditions. Details of the applications are summarised at **Appendix V** and their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
 - (a) accessible via a local track leading from Kung Um Road to its southeast (**Drawing A-1**, **Plans A-2** and **A-3**);
 - (b) paved and largely fenced off; and
 - (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/860 until 24.11.2020.
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
 - (a) comprise predominately open storage/storage yards and warehouses with scattered residential structures, parking of vehicles, workshops, graves, shrubland, bee farm, car service, unused land and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located about 25m to its northwest;
 - (c) to the northwest and southwest of the Site are areas zoned "U", "GB" and "Conservation Area" respectively on the OZP; and
 - (d) except for an open storage yard and four warehouses operating with valid planning permissions (No. A/YL-TYST/964, 945, 971, 983 and 1041), the other open storage/storage yards, warehouses, parking of vehicles, workshops and car service in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. <u>Planning Intention</u>

The planning intention of "OU(STW)" zone is for the provision of sewage treatment/screening plant.

10. <u>Comments from Relevant Government Departments</u>

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

Land Administration

- 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 (about 53 m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
 - (c) Lots 1945 (Portion) and 1954 (Portion), 773 and 776, and 1944 in D.D. 117 are currently covered by Short Term Waivers (STWs) No. 3731, 3962 and 4002 to permit the structures erected thereon for the purposes of "Open Storage and Warehouse for Storage of Construction Material with Ancillary Site Office", "Temporary Open Storage of Construction Material and Recyclable Material (including Metal and Plastic) with Ancillary Office" and "Temporary Open Storage for Metal Goods with Ancillary Warehouse" respectively.
 - (d) 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. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by her department acting in the capacity as 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 should be checked with the lands authority.
 - (b) The management and maintenance responsibilities of the access road/path/track should be clarified 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) 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 on the surrounding areas.

Drainage

- 10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the development.
 - (b) Based on the planning statement enclosed in the application (**Appendix I**), apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TYST/860.
 - (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/860 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.

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Building Matters

- 10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (a) There is no record of approval by the Building Authority for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use related to the application.
 - (b) The applicant should be reminded of the detailed comments at **Appendix VII**.

Long-Term Development

- 10.1.8 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 YLS – Investigation". According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area zoned "OU(STW)".
 - (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.
- 10.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):
 - (a) He has no objection to the application.
 - (b) However, 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

10.1.10 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.

- 10.2 The following government departments have no comment on the application:
 - (a) Director of Electrical and Mechanical Services (DEMS);
 - (b) Director of Agriculture, Fisheries and Conservation (DAFC);
 - (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
 - (d) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 1.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. The first individual objected to the application on the ground that the proposal will lead to increase in traffic flow in the area and affect the safety and living quality of the villagers (**Appendix VI-1**). The second individual opined that the proposal may delay the development programme of the sewage treatment plant under the subject "OU(STW)" zone and should be rejected (**Appendix VI-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary open storage of metal goods with ancillary warehouse for a period of 3 years. Although the development is not in line with the planning intention of the "OU(STW)" zone, which is intended primarily for the provision of sewage treatment/screening plant, 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 of the YLS Development. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the Site.
- 12.2 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.
- 12.3 The Site falls within the YLS Development Area. For applications in NDAs (including potential development areas), the following considerations in the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.4 The proposal is generally in line with the TPB PG-No. 13F in that the Site falls within the YLS Development Area and previous planning approvals for similar open storage use have been given under the previous OZPs; all time-limited approval conditions of the previous application have been complied with; relevant proposal has been submitted to demonstrate that the application would not generate adverse impacts on the surrounding areas; and the local concerns and technical concerns of the concerned departments could be addressed through the imposition of approval conditions.
- 12.5 The application is also generally in line with TPB PG-No. 34C in that approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the previous application No. A/YL-TYST/860 have been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 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 13.2 below 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 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 relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas and to keep the Site clean and tidy at all times.
- 12.7 Given that six previous approvals for open storage uses have been granted to the Site and four similar applications have been approved in the subject "OU(STW)" zone since 2015, approval of the application is generally in line with the Committee's previous decisions. Although there were two previous applications for open storage uses rejected by the Committee in 1998, the Site was zoned "GB" back then. The considerations thereof are generally no longer relevant to the current application.

12.8 There are two public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.7 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments as mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of metal goods with ancillary warehouse <u>could be tolerated</u> for a further 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 and be renewed from 25.11.2020 to 24.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 8:00 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, repairing, cleansing, paint-spraying, other workshop activities and storage/handling (including loading and unloading) of used electrical appliances, computer/electronic parts or electronic waste, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit 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) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services

or of the Town Planning Board by 25.2.2021;

- (j) the existing fire service installations implemented on the Site should be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) 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
- (1) if the above planning condition (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.

[Approval conditions (a), (b), (d), (e), (h) and (i) are the same as those under the permission for application No. A/YL-TYST/860, conditions (c), (g) and (j) have been updated, condition (f) is inserted, and the reinstatement clause is deleted to accord with the department's latest requirements.]

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 development is not in line with the planning intention of the "OU(STW)" zone which is for the provision of sewage treatment/screening plant. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

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 with plans received on 25.8.2020
Appendix Ia	Supplementary Information received on 29.8.2020

Appendix Ib	FI received on 16.9.2020
Appendix Ic	FI received on 29.9.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Relevant extract of TPB PG-No. 34C
Appendix IV	Previous Applications covering the Site
Appendix V	Similar Applications within the subject "OU(STW)" zone on the TYST OZP since 2015
Appendices VI-1 and VI-2	Public Comments received during Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT OCTOBER 2020