

RNTPC Paper No. A/YL-TYST/1065
For Consideration by
the Rural and New Town
Planning Committee
on 22.1.2021

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

APPLICATION NO. A/YL-TYST/1065

- Applicant** : Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
- Site** : Lots 2813 (Part), 2814 (Part), 2815 RP (Part) and 2816 RP (Part) in D.D. 120, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 818 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zoning** : “Open Space” (“O”)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Metal Ware for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage of construction materials and metal ware for a period of 3 years (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the “O” zone, 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. The Site is currently occupied by the applied use with planning permission under application No. A/YL-TYST/877 (**Plans A-2 and A-4**).
- 1.2 The Site involves 10 previous applications for various temporary storage uses with/without other uses. The last application (No. A/YL-TYST/877) 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 2.3.2018. All the time-limited approval conditions under the last application had been complied with and the permission is valid up to 2.3.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters

albeit with shorter operation hours.

- 1.3 According to the applicant, no workshop activities will be carried out at the Site. Also, no medium and heavy goods vehicles exceeding 5.5 tonnes, including container trailers/tractors, will access the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation and landscape proposal, as-built drainage plan and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the previously approved application No. A/YL-TYST/877 are largely the same as the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/877 (a)	Current Application No. A/YL-TYST/1065 (b)	Difference (b) – (a)
Applied Use	Temporary Open Storage of Construction Materials and Metal Ware for a Period of 3 Years		--
Site Area	About 818 m ²		--
Total Floor Area (Non-domestic)	About 319 m ²		--
No. and Height of Structures	4	<ul style="list-style-type: none"> • three containers for storage use with/without site office (3-6.5m, 1-2 storey(s)) • one for toilet (3m, 1 storey) 	--
No. of Parking and Loading/ Unloading Spaces	1 (for light goods vehicle) (7 x 3.5m)		--
Operation Hours	7:00 a.m. to 7:00 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 2.12.2020 (**Appendix I**)
- (b) Further Information (FI) received on 23.12.2020 providing FSIs proposal with fire certificates and clarifying the site layout and operation (**Appendix Ia**)
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

- (a) The Site has been the subject of 6 previous planning permissions for the same use since 2007. All the approval conditions imposed to the last application (No.

A/YL-TYST/877) had been complied with.

- (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).
- (c) The temporary proposal would not jeopardise the long-term planning intention. 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 port back-up purpose in TYST.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 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 on 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 at **Appendix III**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves 10 previous applications for various temporary storage uses with/without other uses covering different extents of the Site. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1b**.

Rejected Applications (4 Cases)

- 6.2 Applications No. A/YL-TYST/221, 229, 244 and 274 were rejected by the Committee between 2003 and 2005 mainly on the grounds that there were adverse departmental comments and the proposals did not comply with the then TPB PG-No. 13C in that the proposed development was incompatible with the village houses of Tin Lung Tsuen nearby.

Approved Applications (6 Cases)

- 6.3 Applications No. A/YL-TYST/360, 452, 494, 559, 711 and 877 were all approved with conditions for a period of 1 or 3 years by the Committee between 2007 and 2018, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals 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 under applications No. A/YL-TYST/360 and 452 were revoked in 2009 and 2010 respectively due to non-compliance with time-limited approval conditions.
- 6.4 Compared with the last application (No. A/YL-TYST/877), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters albeit with shorter operation hours.

7. Similar Applications

There are 21 similar applications for various temporary open storage uses with or without other use straddling the subject “O” zone¹, which were all approved with conditions by the Committee since 2015, mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for two of them were subsequently revoked in 2017 and 2020 due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix V** and the locations of the sites are shown on **Plan A-1a**.

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;
- (b) paved and fenced off; and
- (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/877 (**Plans A-2 and A-4**).

8.2 The surrounding areas have the following characteristics:

¹ The first 20 similar applications were approved prior to the rezoning of the sites to “O” zone on the subject OZP.

- (a) predominantly open storage/storage yards, warehouses, car parks, sewage pumping station, real estate agency and vehicle workshops with scattered residential structures, agricultural land and vacant land/structures;
- (b) to its south is an area zoned “Village Type Development” and to its southwest is an area zoned “Residential (Group D)” on the OZP;
- (c) there are residential structures in the vicinity of the Site with the nearest one situated about 20m to its west across a local track; and
- (d) except for three open storage yards in the vicinity operating with valid planning permissions (applications No. A/YL-TYST/880, 963 and 981), the other open storage/storage yards, warehouses, car parks, real estate agency and vehicle workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and public comment, 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 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, Lot No. 2813 in D.D. 120 is covered by Short Term Waivers (STWs) No. 3949 and 4321 to permit structures erected thereon for the purposes of “Temporary Warehouse for Storage of Construction Machinery and Construction Materials with Ancillary Site Office” and “Temporary Open Storage of Construction Material and Metal Ware” respectively. Lot No. 2814 in D.D. 120 is covered by STWs No. 3950 and 4322 to permit structures erected thereon for the purposes of “Temporary Warehouse for Storage of Construction Machinery and Construction Materials with Ancillary Site Office” and “Temporary Open Storage of Construction Material and Metal Ware” respectively. Lots No. 2815 RP and 2816 RP in D.D. 120 are covered by STWs No. 4749 and 4323 to permit structures erected thereon for the purposes of “Temporary Open Storage of Construction Machinery”

and “Temporary Open Storage of Construction Material and Metal Ware” respectively.

- (c) Should the planning application be approved, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. 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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall 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 area.

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 application.
- (b) Based on the planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under the previous planning application No. A/YL-TYST/877.
- (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/877 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.

Building Matters

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

- (a) As there is no record of approval 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 VII**.

Fire Safety

10.1.7 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.

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 of YLS promulgated in May 2020, the Site falls within an area zoned as “District Open Space”.
- (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 for temporary use for two years.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in mid 2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by Q4 2021 and Q1 2022 respectively. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.
- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that ‘the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1’. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

District Officer’s Comments

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

His 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) Commissioner of Police (C of P);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC);
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comment Received During Statutory Publication Period

On 11.12.2020, the application was published for public inspection. During the first three

weeks of the statutory public inspection period, one public comment from an individual was received raising concerns on the impact of the applied use on the implementation of the intended open space (**Appendix VI**).

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning approval for temporary open storage of construction materials and metal ware for a period of 3 years. Although the applied use is not in line with the planning intention of the "O" zone, DLCS has no objection to the application. While PM(W), CEDD has no objection to the application for temporary use for two years, it is noted that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Nevertheless, should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.

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 application is generally in line with 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 proposals have been submitted to demonstrate that applied use would not generate adverse impacts on the surrounding areas; and the technical concerns of relevant 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/877 had 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 from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of 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 6 previous approvals for storage uses have been granted to the Site and 21 similar applications have been approved since 2015, approval of the current application is generally in line with the Committee's previous decisions. While there were 4 previous applications rejected by the Committee mainly on the considerations that the proposals were not in line with the then TPB PG-No. 13C and there were potential adverse impacts on the surrounding area, such considerations are no longer relevant to the current application as the applied use is considered generally in line with the latest TPB PG-No. 13F, there are no adverse comments from concerned departments and no adverse impacts on the surrounding area are envisaged.
- 12.8 There is one public comment 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 comment mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of construction materials and metal ware could be tolerated 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 2.3.2021 to 2.3.2024. 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 or 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, are allowed 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, 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 2.6.2021;
- (j) the existing fire services installations implemented on the Site shall 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
- (l) 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 (b), (d), (e), (f), (h) and (i) are the same as those under the permission for application No. A/YL-TYST/877, conditions (a), (c), (g) and (j) have been updated, and the condition on stacking height of stored materials is removed 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 Members' reference:

the applied use is not in line with the planning intention of the “O” zone which is for outdoor open-air public space for active and/or passive recreational uses. 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 annex and plans received on 2.12.2020
Appendix Ia	FI received on 23.12.2020
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Relevant Extracts of TPB PG-No. 34C
Appendix IV	Previous Applications covering the Site
Appendix V	Similar Applications within/straddling the subject “O” on the TYST OZP since 2015
Appendix VI	Public Comment received during the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation and Landscape Proposal
Drawing A-4	As-built Drainage Plan
Drawing A-5	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
JANUARY 2021**