

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/889

<u>Applicant</u>	: Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 1198 S.E (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 606 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Proposed Temporary Warehouse for Storage of Construction Material for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for the proposed temporary warehouse for storage of construction material for a period of 3 years (**Plan A-1a**). There is currently works in progress on the Site (**Plans A-2, A-4a and A-4b**).
- 1.2 The northern portion of the Site is not the subject of any previous application and the southern portion of the Site is the subject of 5 previous applications for temporary warehouse uses with/without open storage. Details of these previous applications are at paragraph 5 below and **Appendix II**.
- 1.3 The Site is accessible from Kung Um Road to its south through a local track via the ingress/egress at the southern boundary of the Site (**Drawing A-1 and Plan A-2**). According to the applicant, the proposed development is for storage of construction materials, including tiles, sanitary ware, pipes and alike within the warehouse structure. The applicant undertakes that there will be no repairing, dismantling and workshop uses to be carried out at the Site. Also, the applicant claims that light goods vehicles (LGVs) are adequate to deliver the construction materials to and from the Site. Due to the size of the Site, the applicant would not allow medium and heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, including tractors/trailers, to enter the Site. Plans

showing the vehicular access leading to the Site, site layout, landscape proposal and drainage proposal submitted by the applicant are shown in **Drawings A-1 to A-4** respectively.

1.4 The major development parameters of the application are summarized as follows:

Site Area	About 606m ²
Total Floor Area (Non-domestic)	About 414m ²
No. of Structures	3 (for warehouse and toilet uses)
Height of Structure	3m to 7m (1 storey)
Parking Space(s)	Nil
Loading/ Unloading Space(s)	1 (for LGV)
Operation Hours	7:00 a.m. and 9:00 p.m. Mondays to Saturdays, with no operations on Sundays and public holidays

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

- (a) Application Form received on 28.2.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information dated 27.2.2018 clarifying the site area with replacement pages **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of the Supplementary Planning Statement (**Appendix Ia**). They can be summarized as follows:

- (a) According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E), the Site falls within Category 1 area which is considered suitable for open storage and port back-up uses. Preliminary technical assessments on traffic, drainage, visual and environmental aspects are provided in the submission to demonstrate that the development would not generate adverse impacts on the surrounding areas. It is considered that the development should have fulfilled the guidelines to a large extent and should be given favourable consideration by the Board.
- (b) The Site is zoned “U” on the OZP and the development is in line with the planning intention of the “U” zone, which is to cater for the continuing demand for open storage uses which cannot be accommodated in conventional godown premises. The area is zoned “U” due to drainage and traffic issues. The proposed development is in line with the planning intention as drainage proposal has been submitted, and traffic generation is limited.

- (c) There is a shortage of land for open storage use in Tong Yan San Tsuen because the 4.75 ha “Open Storage” (“OS”) zone is already fully occupied. The “U” zone where the Site falls within is considered in general satisfactory for open storage use as revealed by the study commissioned by the Government in 1994.
- (d) The proposed development is compatible with the surrounding environment. The “U” zone where the Site falls within is mainly filled with open storage uses intermixed with some warehouses, including approved applications No. A/YL-TYST/751, 752, 754, 777, 801, 806, 831 and 867. The proposed development is compatible with the surroundings.
- (e) The proposed development is about the same as the last planning permission in terms of usage. Planning circumstance pertaining to the Site is similar to the date of the approval of the last planning permission.
- (f) The proposed development involves only storage of construction material within an enclosed warehouse. There will be insignificant traffic, environmental and drainage impacts. Based on the traffic generation/attraction estimation, it is anticipated that the proposed development would not generate significant amount of traffic and the negligible increase in traffic would not aggravate the traffic condition of Kung Um Road and nearby road networks. Besides, a number of environmental mitigation measures are proposed. The applicant would also follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” where applicable. Moreover, a 300mm surface U-channel is proposed along the site periphery. The proposed drainage facilities will be provided and maintained by the applicant at his own expense.

3. Compliance with the “Owner’s Consent/Notification” Requirements

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

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The southern portion of the Site was involved in 5 previous applications (No. A/YL-TYST/213, 329, 442, 608 and 751) for temporary warehouse uses with/without open storage. Details of the applications are summarized in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-TYST/213, 329 and 442 for warehouse for storage of furniture, construction materials/ machinery, and household detergent were approved by the Committee on a temporary basis for a period of 3 years on 29.8.2003, 1.9.2006 and 4.9.2009 respectively. However, the planning

permission granted under application No. A/YL-TYST/329 was subsequently revoked due to non-compliance with approval conditions on the fire safety aspect.

- 5.3 Applications No. A/YL-TYST/608 and 751 for temporary open storage and warehouse for storage of furniture, exhibition materials, construction materials/machinery and household detergent for 3 years were approved by the Committee on 21.9.2012 and 4.9.2015 respectively. All the time-limited approval conditions under the last permission (No. A/YL-TYST/751) have been complied with and the permission is valid up to 4.9.2018.

6. Similar Applications

- 6.1 A total of 86 similar applications for various types of temporary warehouse with or without open storage and/or ancillary site office/workshop uses in this part of the “U” zone had been considered by the Committee since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 There are 85 applications approved mainly on similar considerations that the development were not incompatible with the surrounding uses; the developments were generally in line with TPB PG-No. 13E (for cases involving open storage uses only); significant environmental impact on the surrounding areas not anticipated; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, amongst these approved applications, 30 were revoked due to non-compliance with approval conditions.
- 6.3 There is one application (No. A/YL-TYST/478) rejected by the Board on review mainly on the grounds that approval of application with repeated non-compliances would set an undesirable precedent.

7. The Site and Its Surrounding Areas (Plans A-1a and A-2 to A-4b)

- 7.1 The Site is:
- (a) accessible from Kung Um Road to its south through a short section of local track via an ingress/egress provided at the southern boundary of the Site (**Plan A-2**);
 - (b) elongated in shape, hard paved and fenced off with corrugated metal sheets; and
 - (c) currently vacant with works in progress.
- 7.2 The surrounding areas have the following characteristics:
- (a) predominately open storage/storage yards, warehouses, vehicle repair workshop, intermixed with workshops, a refuse collection point, scattered residential structures, vacant structures and unused land;
 - (b) scattered residential structures are found in the vicinity of the Site with the nearest one located about 30 metres to its southwest;

- (c) there are warehouses in the vicinity of the Site operating under valid planning permissions No. A/YL-TYST/741, 751, 752, 754, 801 and 806;
- (d) there are an vehicle repair workshop to its northeast and a warehouse to its southeast which are “existing uses” tolerated under the Town Planning Ordinance; and
- (e) except those having valid planning permissions or being “existing uses”, other open storage/storage yards, warehouses and workshops in its vicinity are mostly suspected unauthorised developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic from the proposed development. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site consists of Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Kung Um Road via government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by her department acting in the capacity as 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

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) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) 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 about 30 metres to its southwest) (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant should also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

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.

- (b) He has the following comments on the submitted drainage proposal (**Drawing A-4**):
 - (i) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
 - (ii) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
 - (iii) The applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
 - (iv) Other detailed comments are at **Appendix IV**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, and the implementation of maintenance of the 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. The applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval 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 used proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
 - (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage.

Others

9.1.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground

cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

9.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) CEDD and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within an area zoned as “Other Specified Uses” annotated “Mixed Use (“OU(MU)”) and “Local Open Space” (“LO”) as well as an area 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. As regard the implementation programme of YLS, we would leave it for CEDD to advise.

9.1.10 Comments of Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

He has no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities. However, the Site falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 3 Works. While the detailed implementation programme for the project is still being formulated, based on the Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

District Officer’s Comments

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

The local consultation was completed and his office has not received any comments, from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment to the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 9.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.4.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The subject application is for proposed temporary warehouse for storage of construction material at a Site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone on the OZP which is generally intended to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area zoned as “OU(MU)” and “LO” as well as an area shown as ‘Road’ on the RODP of YLS promulgated on 8.8.2017, CE/CID of PlanD does not raise objection to the application and PM(W) of 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 jeopardize the long-term development of the area.
- 11.2 The subject “U” zone is mainly occupied by similar warehouse and open storage/storage yards uses (**Plan A-2**). As such, the proposed development is 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 are sensitive receivers of residential use in the vicinity of the Site, with the nearest one located about 30m to its southwest (**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact and to keep the Site clean and tidy at all times.
- 11.4 As the Committee has approved 5 previous applications for similar uses covering the Site and 85 similar applications for warehouse uses in the vicinity of the Site,

approval of the subject application is considered in line with the Committee's previous decisions.

- 11.5 There is no public comment received on the application during the statutory publication period.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the proposed temporary warehouse for storage of construction material 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 20.4.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00p.m. and 7:00a.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 and workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no open storage activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.10.2018;
- (h) the submission of a revised 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 20.10.2018;
- (i) in relation to (h) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.1.2019;

- (j) in relation to (i) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (k) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.10.2018;
- (l) in relation to (k) 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 20.1.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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;
- (n) if any of the above planning conditions (g), (h), (i), (k) or (l) 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; and
- (o) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 Members' reference:

the applicant fails to demonstrate that the proposed 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 received on 28.2.2018

Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information dated 27.2.2018 clarifying the site area with replacement pages
Appendix II	Previous Applications Covering the Application Site
Appendix III	Similar Applications in this Part of the “U” Zone on the Tong Yan San Tsuen OZP since the Promulgation of TPB PG-No. 13E
Appendix IV	Detailed Departmental Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access leading to the Site
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
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 A4-b	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**