

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/909**

<b><u>Applicant</u></b>	: Mr. HSU Wei Chian represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 774 (Part) and 775 (Part) in D.D. 119 and Adjoining Government Land, Pak Sha Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 875m <sup>2</sup> (about) (including Government Land of about 63m <sup>2</sup> )
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<b><u>Zoning</u></b>	: “Undetermined” (“U”)
<b><u>Application</u></b>	: 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 temporary warehouse for storage of construction material for a period of 3 years. The Site falls within an area zoned “Undetermined” (“U”) on the OZP. According to the Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use without valid planning permission (**Plans A-2 and A-4a to A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL-TYST/722), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 17.4.2015 (**Plan A-1**). However, the application was subsequently revoked due to non-compliance with a time-limited approval condition. Details of the previous application are at paragraph 5 and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with similar development parameters.
- 1.3 A comparison of the major development parameters of the current application and the last approved application is as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/722 (a)</b>	<b>Current Application No. A/YL-TYST/909 (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Warehouse for Storage of Construction Material for a Period of 3 Years		---
Site Area	875m <sup>2</sup> (about) <ul style="list-style-type: none"> <li>• Uncovered Area: not exceeding 73m<sup>2</sup></li> <li>• Covered Area: not exceeding 802m<sup>2</sup></li> </ul>		---
Total Floor Area (Non-domestic)	Not exceeding 802m <sup>2</sup>		---
No. and Height of Structure	1 <ul style="list-style-type: none"> <li>• for storage of construction material (not exceeding 6.5m, 1 storey)</li> </ul>	1 <ul style="list-style-type: none"> <li>• for storage of construction material, site office, toilet and guard room (not exceeding 6.5m, 1 storey)</li> </ul>	---
Loading/Unloading Space	Nil	1 (for light goods vehicle)	+1
Operation Hours	7:00 a.m. to 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays		---

1.4 The Site is accessible from Kung Um Road to its east via a local track (**Drawing A-1 and Plans A-2 and A-3**). According to the applicant, the applied use is for storage of construction material such as sanitary ware and tiles. The applicant undertakes that no repairing, dismantling, cleaning or other workshop activities will be carried out. Also, no vehicle exceeding 5.5 tonnes, including medium and heavy goods vehicles and container trailer/tractor would be allowed to enter the Site and all loading/unloading of the construction material will be carried out within the warehouse. Plans showing the vehicular access leading to the Site, the site layout, the landscape proposal and the drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form received on 9.7.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information dated 21.8.2018 undertaking compliance with the approval conditions to be imposed **(Appendix Ib)**  
*[accepted and 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 Section 3 of the Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) With reference 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 areas 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. The Site is also the subject of a previous planning permission (No. A/YL-TYST/722) for the exact same use.
- (b) 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 proposed development is temporary in nature and it would not jeopardise the long term planning intention of the area.
- (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 satisfaction for open storage use as revealed by the study commissioned by the government.
- (d) The “U” zone where the Site falls within is currently mainly filled with open storage uses and warehouse, and most of the applications were previously approved by the Board. With the provision of environmental mitigation measures, the applied development would generate no significant impact to its surroundings.
- (e) It is noted that the last planning permission (No. A/YL-TYST/722) was revoked due to non-compliance with the approval condition requiring the implementation of the drainage proposal. The applicant will try his best to comply with the planning conditions imposed to the permission. In particular, a drainage proposal has been submitted in support of the current application.
- (f) Similar temporary developments in close vicinity of the Site were granted with planning approval by the Board, including Applications No. A/YL-TYST/765, 773, 843, 856 and 876. The applied use is very similar to the approved uses in terms of nature and planning circumstances except that it is smaller in scale. As such, the Board’s earlier decisions reflect that the applied use may be tolerated provided that adequate mitigation measures are proposed to minimise degradation of the surrounding environment.
- (g) There will be insignificant traffic, environmental and drainage impacts. The negligible increase in traffic would not aggravate the traffic condition of Kung Um Road and nearby road network. No frequent traffic or generation of noise due to loading/unloading of goods and associated traffic is anticipated. No cleaning, repairing, dismantling or other workshop activities will incur within the Site and the applicant would follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” where applicable. Drainage proposal (Annex 1 of **Appendix Ia** and **Drawing A-4**) is provided in the submission to demonstrate that the Site would not generate adverse drainage impacts and all the proposed drainage facilities would 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 Ping Shan Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The use in the Site is subject to investigation. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action would be taken.

### **5. Previous Application**

- 5.1 The Site was involved in one previous application (No. A/YL-TYST/722) for the same use as the current application. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.
- 5.2 The last application was approved with conditions by the Committee on 17.4.2015 on the considerations that the applied use is not in conflict with the planning intention of the “U” zone; the development is not incompatible with the surrounding land uses; the development would not generate significant environmental impact on the surrounding areas; other government departments consulted had no adverse comments on the application; and the Committee had approved similar applications for warehouse use in the subject “U” zone. However, the planning permission was subsequently revoked on 17.10.2016 due to non-compliance with the approval condition requiring the implementation of the drainage proposal.
- 5.3 Compared to the last application (No. A/YL-TYST/722), the current application is submitted by the same applicant for the same use on the same site with similar development parameters.

### **6. Similar Applications**

- 6.1 A total of 95 similar applications for various types of temporary warehouse with/without open storage and/or ancillary site office 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 summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 There are 94 approved applications for temporary warehouse with/without open storage and/or ancillary workshop uses. However, amongst these approved applications, 34 were revoked due to non-compliance with approval conditions.
- 6.3 There is one application rejected mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.

- 6.4 For Members' information, Application No. A/YL-TYST/910 for temporary warehouse for storage of construction material for a period of 3 years by the same applicant to the immediate south of the Site within the same part of the "U" zone on the OZP will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east;
- (b) paved and covered by a warehouse structure; and
- (c) currently occupied for the applied use without valid planning permission.

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) mixed with warehouses, open storage/storage yards, workshops, scattered residential structures, fallow agricultural land, unused land and vacant land/structures;
- (b) there are scattered residential structures in its vicinity with the nearest one located to its northeast (about 10m away); and
- (c) to its immediate north, south and east of the Site are warehouses. Except for the warehouses located to its south and southeast operating under valid planning permissions No. A/YL-TYST/843 and 856 respectively, the other warehouses, open storage/storage yards and workshops in the vicinity are 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 generated 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 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) Lot No. 774 in D.D.119 is covered by Short Term Waiver (STW) No. 4507 to permit structures erected thereon for the purpose of “Temporary Warehouse (excluding dangerous goods godown)”.
- (c) The Government Land (GL) within the Site is covered by Short Term Tenancy (STT) No. 2973 for the purpose of “Temporary Warehouse for Storage of Construction Material”.
- (d) The Site is accessible to Kung Um Road via GL and private land. This office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the application site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to this office for modification of the STW/STT conditions if there is any irregularities on site 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 regularize any irregularities on site. Such application(s) will be considered by LandsD 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 LandsD.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the application site.
- (b) The land status of the access road/path/track leading to the Site at Kung Um Road shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) 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) There is no 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 “Code of Practice on Handling the 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) Based on the drainage proposal enclosed in the application, apparently the applicant would implement the same drainage facilities as those proposed under previous Planning Application No. A/YL-TYST/722.
- (b) In view of the above, he has no objection in principle to the proposed development. Should the Board consider 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. In addition, 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; and
  - (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 use 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 unauthorised 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 the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) 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 the B(P)R at the building plan submission stage.

### **District Officer's Comments**

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

His office has not received any comment from the locals on the application.

- 9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P);

## **10. Public Comments Received During the Statutory Publication Period**

- 10.1 On 17.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.8.2018, two public comments were received from members of the public.
- 10.2 The commenters object to the application on grounds of housing shortage (**Appendix IV-1**); and legitimising operation with revocation history (**Appendix IV-2**).

## **11. Planning Considerations and Assessments**

- 11.1 The subject application is for 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. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The subject "U" zone is mainly occupied by similar warehouses, open storage/storage yards and workshops uses, and similar uses are found in the vicinity of the Site (**Plan A-2**). As such, the 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 and there has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental

nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise any potential environmental impact and to keep the Site clean and tidy at all times.

- 11.4 Given that a previous approval for the same use has been granted to the Site and 94 similar applications have been approved in this part of the “U” zone, approval of the current application is in line with the Committee’s previous decisions. Nevertheless, the previous approval (No. A/YL-TYST/722) for the same use by the same applicant was revoked due to non-compliance with the time-limited approval condition requiring the implementation of the drainage proposal. For the current application, the applicant has undertaken to comply with the approval conditions to be imposed and has submitted a drainage proposal in support of the application (**Drawing A-4**). CE/MN, DSD has no objection in principle to the application. In view of this, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with associated approval condition. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There are two public comments raising objection to the application for the reasons as summarised in paragraph 10 above. The planning considerations and assessments above are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the 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 7.9.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (c) no repairing, dismantling, cleansing or other workshop activities, as proposed by the applicant, is 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 tractor/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) the submission of a landscape proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.12.2018;
- (g) in relation to (f) above, the implementation of the landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.3.2019;
- (h) 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 7.3.2019;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 7.12.2018;
- (k) in relation to (j) above, the implementation 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 7.3.2019;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), or (i) 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;
- (m) if any of the above planning conditions (f), (g), (h), (j) or (k) 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
- (n) 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:

approval of the application with non-compliance with approval conditions would set an undesirable precedent for other similar applications.

### **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**

<b>Appendix I</b>	Application Form received on 9.7.2018
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Further Information dated 21.8.2018 undertaking compliance with approval conditions to be imposed
<b>Appendix II</b>	Previous application covering the Site
<b>Appendix III</b>	Similar applications in this part of the "U" zone on the OZP since the promulgation of TPB PG-NO. 13E
<b>Appendices IV-1 and IV-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Plan showing the vehicular access leading to the Site
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape Plan
<b>Drawing A-4</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**