

RNTPC Paper No. A/YL-NTM/401  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 24.4.2020

---

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

**APPLICATION NO. A/YL-NTM/401**

- Applicant** : Mr. Man Kwok Keung represented by Mr. Man Kam Hing
- Site** : Lots No. 2259 (Part) in D.D. 102, Ngau Tam Mei, Yuen Long
- Site Area** : 208 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Pond Filling for Permitted Open Storage of Construction Materials (Tiles and Metal Equipment)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed pond filling at the application site (the Site) for permitted open storage of construction materials (tiles and metal equipment) (**Plan A-1**). The Site falls within an area zoned “OS” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes of the OZP, ‘Open Storage (not elsewhere specified)’ is a Column 1 use always permitted within “OS” zone. However, any filling of pond, including that to effect a change of use to any of those specified in Columns 1 and 2 or uses/developments always permitted under the covering Notes (except public works co-ordinated or implemented by Government, and maintenance, repair or rebuilding works), requires planning permission from the Town Planning Board (the Board). The Site is currently a pond and partly covered with vegetation.
- 1.2 The applicant proposed to fill the pond at the Site (about 208 m<sup>2</sup>) by about 1m for permitted open storage use. The Site is accessible by Kwu Tung Road via a local track at the northern boundary of the Site (**Plans A-2 and A-3**). In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supporting documents including drainage and landscape plans received on 12.3.2020 (**Appendix I**)
  - (b) Further information (FI) received on 17.4.2020 and 20.4.2020 (**Appendix Ia**)

providing responses to Transport Department's comments  
with plans showing vehicular access  
(*exempted from publication*)

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The proposed use is in line with the planning intention. The pond within the Site is dried up and covered with vegetation. The proposed pond filling could help prevent infestation of mosquitoes.
- (b) Should the application be approved by the Board, the applicant will plant more trees and provide drainage facilities to improve the environment. The applicant has provided drainage and landscape plans in support of the application.

**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. 31) by posting site notice and publishing newspaper notice. Detailed information would be deposited at the meeting for Members' inspection.

**4. Background**

The Site is not subject to planning enforcement action.

**5. Previous Application**

There is no previous application for the Site.

**6. Similar Application**

- 6.1 There are 6 similar applications (No. A/YL-NTM/94, 302, 304, 305, 316 and 349) for proposed pond filling for permitted open storage uses within the same "OS" zone. They were all approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions between 2000 and 2018 mainly on the considerations that impacts from drainage, nature conservation, traffic, environmental and landscape planning perspectives were not anticipated, relevant government departments had no objection to/adverse comments on the applications, and open storage use was always permitted within the "OS" zone on the OZP.

6.2 Details of these 6 applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) a pond which is overgrown with vegetation; and
- (b) accessible via a local track leading to Kwu Tung Road.

7.2 The surrounding areas are predominantly ponds, unused land, open storage yards and scattered residential dwellings. They have the following characteristics:

- (a) to its immediate north and northwest is an open storage of recycled metal, converted container and construction materials (part of the site is covered by an approved application No. A/YL-NTM/302 for pond filling for open storage use). Further north and northeast are logistic centre, warehouse and open storage of vehicles;
- (b) to its east are ponds, storage, residential dwellings and vacant land within the “Green Belt” zone;
- (c) to its immediate south are residential dwellings, ponds and unused land. Further south and southeast are open storage of vehicles/construction materials and residential dwellings within the “Green Belt” zone; and
- (d) to its west are pond, unused land and a nullah.

## **8. Planning Intention**

The “OS” zone is intended primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

## **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 from District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

Without recent inspection, his comments based on the applicant’s information are as follows:

- (a) The Site comprises an Old Scheduled agricultural lot held under the Block Government Lease on which no structures are allowed to be erected without prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner will need to apply to LandsD to permit the structures to be erected or regularize any irregularities on site, if any. Applications for any of the above 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 will be approved. If such application 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.

### **Transport**

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

- (a) He has no objection to the application.
- (b) The Site is connected to Kwu Tung Road via a section of a local access which is not managed by Transport Department. The land status of the local access road should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (c) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) HyD is not/shall not be responsible for the maintenance of any village access road connecting the Site and public road such as Ka Lung Road and Kwu Tung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

#### 9.1.4 Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

He has no comment on the application from railway development point of view, as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems.

## **Environment**

### 9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application. The Site falls within an area zoned “OS” on the Ngau Tam Mei OZP. The proposed pond filling is for open storage of construction materials.
- (b) The applicant is reminded that the pond should not be filled with construction waste and it is the applicant’s responsibility to comply with all environmental legislations during construction and operation of the project. The applicant is also advised to follow the Recommended Pollution Control Clauses for Construction Contracts ([https://www.epd.gov.hk/epd/english/environmentinhk/eia\\_planning/guide\\_ref/rpc.html](https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html)) to minimize the environmental impacts during the construction stage.

## **Nature Conservation**

### 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) His site inspection revealed that the fishpond at the Site is semi-active. As such, he has reservation on the subject application as pond filling is not recommended from fish culture perspective.
- (b) Noting that the Site is zoned “OS” with some open storage yards in close vicinity of the Site, and that majority of the Site is overgrown with common species of herbaceous plants based on the existing condition, the ecological value of the Site is deemed to be limited. In this regard, he has no strong view on pond filling from nature conservation perspective. Nevertheless, the applicant should be reminded not to affect the adjacent pond within the “GB” zone to the southeast of the Site during the pond filling work.

## **Landscape**

### 9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site falls within an area zoned “OS” on the Ngau Tam Mei OZP. Based on the aerial photo taken in 2018, the Site is situated in an area of rural landscape character comprising scattered tree groups and open storage yards. Considering that the same proposed use and filling of pond can be found in the proximity within the same “OS” zone (Application No.

A/YL-NTM/302) and was approved by the Committee in 2014, it is considered that the proposed use is not incompatible with the surrounding environment.

- (c) The Site is comprising of an existing pond with non-significant aquatic vegetation. No existing tree is found within the Site. Significant adverse impact on landscape resources is not anticipated.

### **Drainage**

9.1.8 Comments from Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no in-principle objection to the application.
- (b) Should the Board approve the application, he would suggest the following approval conditions to be included:
  - (i) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB;
  - (ii) in relation to (i) above, no pond filling works on site should commence until the implementation of the drainage proposal recommended therein to the satisfaction of the Director of Drainage Services or of the TPB;
- (c) The applicant should be advised on the followings:
  - (i) The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover & invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included. ( For preparation of the drainage proposal, the Guideline on preparation of the drainage proposal is available in DSD homepage at [http://www.dsd.gov.hk/EN/Files/Technical\\_Manual/dsd\\_guideline/Drainage\\_Submission.pdf](http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf) for reference ). The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
  - (ii) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the

completed drainage works jointly with the applicant with reference to the set of photographs.

- (iii) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (iv) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (v) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (vi) The applicant should consult DLO/YL regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the application site in future.
- (vii) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the site.

### **Building Matters**

#### 9.1.9 Comments from the Chief Building Surveyor/ New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works (including containers and open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the Buildings Department (BD) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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 works or UBW on the Site under the BO.
- (c) 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) Regulation (B(P)R) respectively.

- (d) the Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Others**

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

The applicant shall 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 or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the measures as detailed in **Appendix IV**.

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

#### 9.1.11 Comments of the District Officer (Yuen Long) (DO(YL)):

His office has no comment on the application and local comments shall be submitted to the Board directly, if any.

#### 9.2 The following Government departments have no objection to the application:

- (a) Director of Fire Services (D of FS);
- (b) Commissioner of Police (C of P);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Director of Food and Environmental Hygiene (DFEH);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (g) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

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

On 20.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.4.2015, two comments were received from San Tin Rural Committee and a member of public objecting to the application mainly on the grounds that the proposed pond filling would generate drainage and ecological impacts, affect the adjacent ponds, and the open storage use would cause adverse traffic impact (**Appendix III**).



## **11. Planning Considerations and Assessment**

- 11.1 The applicant proposes to fill the pond at the Site (about 208 m<sup>2</sup>) by about 1m for permitted open storage use. The “OS” zone is primarily intended for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the proposed open storage use is always permitted, pond filling at the Site requires planning permission from the Board to ensure that it would not result in adverse drainage impacts on the surrounding areas. In addition, other consequential impacts arising from pond filling should also be taken into account in assessing the pond filling proposal.
- 11.2 Regarding the drainage aspect, the applicant has submitted a preliminary drainage proposal. CE/MN of DSD has no objection in-principle to the application subject to the imposition of approval conditions including the submission and implementation of drainage proposal and no pond filling works on Site would be allowed until the accepted drainage proposal have been implemented to the satisfaction of DSD. As such, relevant approval conditions on the above are recommended in paragraph 12.2 (b) and (c) below. Non-compliance with any of these approval conditions would result in revocation of the planning permission and unauthorised development on site would be subject to enforcement action by the Planning Authority.
- 11.3 From fisheries viewpoint, DAFC has reservation on the application as the fishpond at the Site is semi-active, and pond filling is not recommended from fish culture perspective. Nevertheless, although pond filling is not recommended from fish culture perspective, AFCD has no strong view from nature conservation perspective as the ecological value of the Site is deemed to be limited in view that the pond is located in an “OS” zone and majority of the Site is overgrown with common species of herbaceous plants.
- 11.4 CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as no existing tree is found and the Site consists of only non-significant aquatic vegetation, significant adverse landscape impact is not anticipated. Other concerned departments including C for T, DEP, CE/C of WSD, H(GEO) of CEDD have no adverse comments regarding traffic, environmental, water supply and geotechnical engineering perspectives.
- 11.5 Six similar applications for proposed pond filling for permitted open storage uses in the vicinity of the Site were approved by the Committee between 2000 and 2018 as detailed in paragraph 6.1 above. Approval of the application is in line with the Committee’s previous decisions.
- 11.6 Two objecting public comment was received raising concerns as detailed in paragraph 10. The departmental comments and planning consideration and assessments above are of relevance.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 24.4.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no part of the Site is allowed to be filled to a depth exceeding 1m as proposed by the applicant;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) in relation to (b) above, no pond filling works on site should commence until the implementation of the drainage proposal recommended therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) if any of the above planning conditions (a), (b) or (c) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

### Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 12.3 There is no strong reason to reject the application.

## 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
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form with supporting documents received on 12.3.2020
<b>Appendix Ia</b>	FI received on 17.4.2020 and 20.4.2020
<b>Appendix II</b>	Similar applications within the same “OS” zone on the OZP
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2020**