

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/668

- Applicant** : Mr. TANG Kong Chung
- Site** : Lot 1029 RP in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
- Site Area** : About 2,238 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zonings** : “Agriculture” (“AGR”) (about 2,081 m² or 93% of the Site) and “Residential (Group C)” (“R(C)”) (about 157 m² or 7% of the Site)
- Application** : Proposed Temporary Animal Boarding Establishment and Dog Training Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary animal boarding establishment and dog training centre for a period of three years (**Plan A-1**). The Site falls within an area mainly zoned “AGR” (about 93% of the Site) with minor portion zoned “R(C)” (about 7% of the Site) on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use under “AGR” zone and neither a Column 1 nor 2 use under “R(C)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced off and vacant.
- 1.2 According to the applicant, the proposed temporary animal boarding establishment and dog training centre will accommodate not more than 40 to 60 dogs. It involves two one-storey structures with a total floor area of about 212.4 m² and height not exceeding 4 m within the Site for kennel, dog training area, members reception area and staff restroom respectively. The open area at the southeast will be the dog training area. Five parking spaces for vans and private cars and a septic tank will also be provided. The daily operation hours of the proposed development are between 9:00a.m. and 6:00p.m. daily. The Site is accessible from Sha Tau Kok Road – Lung Yeuk Tau Section. The daily traffic generated by the proposed development is expected not more than 10 daily trips on weekdays and not more than 20 on weekends. The site layout,

proposals for drainage, landscape, vehicular access and fire service installations are at **Drawings A-1 to A-5** respectively.

1.3 The Site is the subject of two previous applications (No. A/DPA/NE-LYT/71 and A/NE-LYT/314) for uses different from the current application. Both applications were rejected by the Board on review or by the Rural and New Town Planning Committee (the Committee) in 1994 and 2005 respectively.

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

- (a) Application form with attachments received on 21.5.2018 **(Appendix I)**
- (b) Supplementary information received on 25.5.2018 **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and supplementary information (**Appendices I and Ia**). They can be summarized as follows:

- (a) the application is a temporary development which would not affect the surrounding environment;
- (b) the proposed development would prevent pest and rodent at the Site and improve the environment by implementing landscape and drainage proposals; and
- (c) the daily traffic generated by the proposed development is expected not more than 10 daily trips on weekdays and not more than 20 on weekends. No adverse traffic impact is expected.

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

The applicant is not the “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 Fanling District Rural Committee (FDRC). Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

As advised by the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is not subject to any active enforcement action.

5. Previous Applications

5.1 The Site is the subject of two previous applications (No. A/DPA/NE-LYT/71 and A/NE-LYT/314) for private lorry park and ancillary car-repairing workshop, and temporary open parking and storage of container trailers, lorries, excavators and construction materials for a period of 3 years respectively. Both applications were rejected by the Board on review or by the Committee in 1994 and 2005 respectively

mainly on the considerations that the development under applications were not in line with the planning intention and not complied with relevant Town Planning Board guidelines; and there were no technical assessments/proposals submitted to demonstrate that the developments would not generate adverse traffic, drainage and environmental impacts on the surrounding areas.

5.2 Details of these previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application for ‘animal boarding establishment’ use in the “AGR” and “R(C)” zones in the vicinity of the Site in Lung Yeuk Tau and Kwan Tei South area.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) fenced off and vacant; and
- (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau Section.

7.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by scattered temporary domestic structures, vacant land, open storage yards and active/fallow agricultural land,;
- (b) to the immediate north and south are mainly covered by tree groups;
- (c) to the northeast and to the north across Sha Tau Kok Road are open storage yards and car repair workshop; and
- (d) to the east, west and further south are scattered temporary domestic structures and vacant land.

8. Planning Intentions

8.1 The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area is to primarily retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 The planning intention of the “R(C)” zone in the Lung Yeuk Tau and Kwan Tei South area is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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 Office/North, Lands Department (DLO/N, LandsD):

- (a) The lot is an Old Schedule lot held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access;
- (b) the occupation boundary and application boundary of the Site does not tally. Apart from the application lot, Lots 1027 and 1028 RP in D.D.83 are also being occupied; and
- (c) according to the proposal submitted by the applicant, structures will be erected within the Site. If the planning application is approved, the applicant shall apply to his office for a Short Term Waiver (STW) to cover the proposed structures on site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

- (a) the vehicular access should be no less than 7.3m;
- (b) the applicant shall advise the number of car parking spaces and loading/unloading spaces to be provided and justify the adequacy of the parking spaces so provided by relating to the number of vehicles visiting the Site;
- (c) the applicant should demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site and manoeuvring within the Site, preferably using swept path analysis;
- (d) the applicant should advise the management/control measures to be adopted for the proposed development to ensure no queuing of vehicles outside the Site;
- (e) it is noted that the Site is not directly connected to Sha Tau Kok Road. The applicant shall advise the provision and management of pedestrian facilities to ensure the safety of pedestrians; and
- (f) unless the applicant could satisfactorily address her concerns, she cannot render support to the application from the traffic engineering perspective.

9.1.3 comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no comment on the application; and
- (b) the road branching from Sha Tau Kok Road to the Site is not maintained by his office.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) it is noted that there is nullah to the east of the Site and there are some domestic structures in the vicinity. Due to the nature of the proposed development, odour, noise nuisance and sewage proposal from the Site are the key environmental concerns. However, insufficient information is provided by the applicant to satisfactorily address the potential environmental impacts. His specific comments on the proposed mitigation measures are appended in **Appendix III**;
- (b) given the Site is located in the vicinity to some sensitive uses with only about 7 m from the nearest sensitive use, the applicant should provide adequate information demonstrating that the proposed development would not cause adverse environmental impacts/nuisance to the nearby sensitive receivers; and
- (c) in this connection, he could not lend support to the application at this stage.

Landscape

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) the Site is located within an area of rural landscape character comprising temporary structures, farmland and scattered tree groups. As the proposed development involves 1-storey temporary structures, hard paved area and car parking spaces, it is not entirely incompatible with the surrounding environment;
- (c) according to her site record in June 2018, the Site is fenced off and covered with soil and patches of wild grasses. There is no significant vegetation except a few young common trees of medium amenity value along the northern and western site boundary. Having reviewed the proposed layout of the development, these trees can be preserved. As such, significant adverse landscape impact arising from the proposed development is not anticipated;

- (d) should the Board approve the application, an approval condition on the submission and implementation of tree preservation and landscape proposal is recommended; and
- (e) the applicant is advised to note the following:
 - (i) the landscape proposal should be a scaled drawing;
 - (ii) the proposed preserved trees indicated on the submitted landscape proposal are *Leucaena leucocephala* 銀合歡. They are weed trees and should be removed and replaced with tree planting;
 - (iii) the species of proposed tree planting should be provided;
 - (iv) all tree pits should have proper planter edge with 1m (L) x 1m (W) x 1.2m (D) in size and backfilled with proper planting soil; and
 - (v) the drainage alignment should be indicated on the landscape proposal and a clearance distance of 600mm away from tree planting should be provided.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in-principle to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition on the submission and implementation of drainage proposal is recommended to ensure that the development will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

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

- (a) if any existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under this application;
- (b) before any new building works (including temporary buildings/structures and containers etc.) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (c) if the proposed use under application is subject to the issue of a licence, any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (d) 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)Rs) respectively; and
- (e) if the Site does not abut 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)Rs at the building plan submission stage.

Fire Safety

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

- (a) he has no specific comment on the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans. In addition, the arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the BD.

Water Supply

9.1.9 Comments of the Chief Engineer/Construction, Water Services Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

Agriculture and Licensing

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

- (a) the Site is a vacant land. Agricultural activities in the vicinity of the Site are active and agricultural infrastructure such as water supply and road access are available. Since the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view;
- (b) under the current legislation, any person who provides food and accommodation for animals in return for a fee paid by the animal owner must

apply for a Boarding Establishment Licence from his department. However, the Site does not associate with any licence granted by his department; and

- (c) it is noted that a nullah is located to the east of the Site. Should the application be approved, the applicant should be reminded to implement good site practice so as not to pollute the nullah nearby.

Environmental Hygiene

9.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) he has no objection to the application;
- (b) the operation of the subject animal boarding establishment should not cause any sanitary nuisance;
- (c) neither accumulation of waste nor water that may lead to breeding of mosquitoes shall be allowed on the Site; and
- (d) the applicant shall be responsible for the prompt removal and disposal of any waste at their own expenses, and carry out adequate measures to prevent breeding of mosquitoes and other pest at the Site.

District Officer's Comments

9.1.12 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) member of subject constituency cum the Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau and remaining two IIRs of Lung Yeuk Tau have no comment on the application, whereas the Chairman of FDRC objects the application as the proposed animal boarding establishment and dog training centre will create nuisance, odour and adverse environmental impacts on the surrounding areas.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Commissioner of Police (C of P); and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 29.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, seven public comments were received (**Appendix IV**). A NDC member and an individual support the application as it can provide convenience to the needed persons whereas the Chairman of Sheung Shui District Rural

Committee indicates no comment on the application. The Hong Kong Bird Watching Society, the Chairman of FDRC and two individuals object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; the applicant fails to demonstrate that the development would not generate adverse traffic, environmental, sewerage and landscape impacts on the surroundings; and approval of the application would set an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary animal boarding establishment at a site largely zoned “AGR” which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed development is not in line with the planning intentions of the “AGR” zone and DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. There is no strong justification given in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The proposed development involving kennel, dog training area, members reception area and staff restroom is considered not entirely incompatible with the surrounding environment which is rural in character predominated by open storages, domestic structures, and active/fallow agricultural land (**Plan A-2**). CTP/UD&L, PlanD considers that adverse landscape impact arising from the proposed animal boarding establishment and dog training centre is not expected and has no objection to the application from the landscape planning perspective.
- 11.3 DEP does not support the application as there are sensitive receivers in the vicinity of the Site and the applicant has not provided information to address the potential environmental impacts, including potential noise nuisance from dog barking as well as odour and sewage generated from the proposed use. Besides, C for T does not support the application from the traffic engineering viewpoint as the applicant fails to demonstrate in the submission that the temporary development will not cause adverse traffic impact on the surrounding area, and that there will be adequate number of parking space, satisfactory traffic arrangement, pedestrian safety management and vehicle manoeuvring entering, exiting and within the Site. Other departments consulted, including D of FS, CE/MN of DSD and DFEH, have no comment on / no objection to the application.
- 11.4 The Site is the subject of two previous planning applications for private lorry park and ancillary car-repairing workshop, and temporary open parking and storage of container trailers, lorries, excavators and construction materials for a period of 3 years. Both applications were rejected by the Board on review or by the Committee in 1994 and 2005 respectively mainly on the considerations that the development under applications were not in line with the planning intention and not complied with relevant Town Planning Board guidelines; and there were no technical assessments/proposals submitted to demonstrate that the developments would not generate adverse traffic, drainage and environmental impacts on the surrounding areas.
- 11.5 Regarding the adverse public comments and local objection mainly on the planning intention of the “AGR” zone, potential adverse impacts on the surrounding areas, and

setting of an undesirable precedent, relevant Government departments' comments and planning assessment above are relevant.

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 does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental and traffic impacts on the surrounding areas.

12.2 Alternatively, 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 20.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system is allowed on the Site during the planning approval period;
- (c) the provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.1.2019;
- (d) the submission of tree preservation and 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 20.1.2019;
- (e) in relation to (d) above, the implementation of tree preservation and landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.4.2019;
- (f) the submission of proposals for water supplies for fire fighting and fire service installations 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 20.1.2019;
- (g) in relation to (f) above, the provision of water supplies for fire fighting and fire service installations 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

20.4.2019;

- (h) the submission of a 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 20.1.2019;
- (i) in relation to (h) above, the provision of drainage facilities 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 20.4.2019;
- (j) the submission of traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 20.1.2019;
- (k) in relation to (j) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 20.4.2019;
- (l) the submission of an environmental assessment within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 20.1.2019;
- (m) in relation to (l) above, the implementation of environmental mitigation measures identified therein within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 20.4.2019;
- (n) if any of the above planning conditions (a) or (b) is not complied with during planning approval, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (o) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) or (m) 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
- (p) upon expiry of the planning permission, the reinstatement of “AGR” portion 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**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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

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| Appendix I | Application Form with Attachments received on 21.5.2018 |
| Appendix Ia | Supplementary Information received on 25.5.2018 |
| Appendix II | Previous s.16 Applications |
| Appendix III | Detailed Comments of Director of Environmental Protection |
| Appendix IV | Public Comments |
| Appendix V | Recommended Advisory Clauses |
| Drawing A-1 | Site Layout Plan |
| Drawing A-2 | Drainage Plan |
| Drawing A-3 | Landscape Plan |
| Drawing A-4 | Vehicular Access Plan |
| Drawing A-5 | Fire Service Installations Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
JULY 2018**