

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/580

<u>Applicant</u>	:	Zetta Fire Equipment Company Limited represented by Kenneth To and Associates Limited
<u>Site</u>	:	Lot 436 RP (Part) in D.D. 77, Ping Che, New Territories
<u>Site Area</u>	:	348.6 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	:	“Open Storage” (“OS”)
<u>Application</u>	:	Proposed Temporary Dangerous Goods Godown and Industrial Use for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for the proposed temporary dangerous goods godown and industrial use for a period of five years (**Plan A-1**). The Site falls entirely within an area zoned “OS” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Dangerous Goods Godown’ and ‘Industrial Use (not elsewhere specified)’ are Column 2 uses which require planning permission from the Town Planning Board (the Board).
- 1.2 According to the information submitted by the applicant, the proposed development under application is to store and process “Fire Protection Fluid” that has been pressurized by nitrogen and stored in gas cylinders for fire fighting purpose. It is classified as Category 2 Compresses Gases, Class 2 (Liquefied Gases) under the Dangerous Goods (Application and Exemption) Regulations. The amount of dangerous goods to be stored at the proposed godown is estimated to be six nitrogen cylinders and 2,000kg of the fire protection fluid. The proposed development comprises two structures with a total floor area of about 51 m², including two dangerous goods store rooms with a total floor area of about 20 m² and 3.5m in height for storage of dangerous goods and a steel canopy with a total floor area of about 31 m² and 5.5m in height for gas refilling/pressurizing process of the nitrogen. A loading/unloading space (3.5m(W) x 7m(L)) for goods vehicles will be provided within the Site. The Site is accessible via a

local track branching off from Ng Chow Road. According to the traffic impact assessment submitted (**Appendices Ia, Ic and Ie**), the proposed dangerous goods godown will be operated after the commissioning of the new trunk road of Liantang/Heung Yuen Wai Boundary Control Point Project. To ensure pedestrian safety, banksman will assist pedestrian along the local track to Ng Chow Road when vehicles entering and existing the Site and revolving lanterns will be provided at the site access. The operation hours of the Site are between 2:00 p.m. and 5:00 p.m. from Mondays to Fridays, and no operation on Saturdays, Sundays and public holidays. The site layout plan and road access plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

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

- (a) Application Form with Attachments received on 15.11.2018 (**Appendix I**)
- (b) Planning Statement (**Appendix Ia**)
- (c) Letter dated 22.12.2017 requesting for deferment of consideration of the application (**Appendix Ib**)
- (d) Further Information received on 15.1.2018 (**Appendix Ic**)
- (e) Letter dated 22.2.2018 requesting for deferment of consideration of the application (**Appendix Id**)
- (f) Further Information received on 28.3.2018 (**Appendix Ie**)
- (g) Further Information received on 25.4.2018 (**Appendix If**)

1.4 At the request of the applicant (**Appendices Ib and Id**), the Rural and New Town Planning Committee (the Committee) of the Board agreed twice to defer making a decision on the application for two months each pending the preparation of further information to address the departmental comments. The applicant submitted the further information on 28.3.2018 and 25.4.2018, and the application is rescheduled for consideration by the Committee on 18.5.2018.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 5 of the planning statement at **Appendix Ia**. They can be summarized as follows:

- (a) the proposed development involves storage and processing of dangerous goods and technical assessments have been submitted. It is in line with the planning intention of "OS" zone and Town Planning Board Guidelines PG-No. 13E;
- (b) the approval of the proposed development would not jeopardize the long term planning of the area under the Preliminary Feasibility Study for the Development of New Territories North which is still under study;
- (c) technical assessments have been submitted and they demonstrate that no adverse traffic and drainage impacts are anticipated; and
- (d) there is no sensitive receiver in the surrounding area, thus no noise sensitive receivers in the vicinity of the Site would be subject to unacceptable industrial noise impact.

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 notifying the concerned land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Town Planning Board Guidelines

Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No.13E) is relevant to the application. The Site falls within Category 1 area under TPB PG-No. 13E promulgated on 17.10.2008. Relevant extract of the Guidelines is attached in **Appendix II**.

6. Previous Application

There is no previous application for the Site.

7. Similar Applications

7.1 There are two similar applications for temporary dangerous goods godown within “OS” zone to the south of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**).

7.2 Application No. A/NE-TKL/305 was approved with conditions by the Board on review on 27.6.2008 mainly on the considerations that approval of the development would not frustrate the planning intention of the “OS” zone on the OZP and the application complied with the TPB PG-No. 13E in that there was no major adverse departmental comments received and local objections could be addressed through the implementation of approval conditions. Application No. A/NE-TKL/463 was approved with conditions by the Committee on 7.3.2014 mainly on the considerations same as the above; as well as the proposed development formed an essential part in the manufacturing process of the concerned rural workshop and the proposed godown could not be accommodated elsewhere or in conventional godown premises; and the proposed development was small size in nature (with a total floor area of about 30m²). However, both applications were subsequently revoked due to non-compliance with approval conditions mainly in the aspects of fire services installation and drainage.

7.3 Details of these similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) flat, formed, fenced off and accessible via a local track leading to Ng Chow Road; and
- (b) currently used for storage of empty gas cylinders.

8.2 The surrounding areas have the following characteristics:

- (a) to the northwest, west and south are various open storage uses and parking of container vehicles and trailers; and
- (b) to the immediate north is a watercourse running from the east to the west and across the watercourse are a knoll with trees, some active/fallow agricultural land, vacant/unused land and temporary structures for domestic purpose.

9. Planning Intention

The planning intention of the “OS” zone in Ping Che and Ta Kwu Ling area is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises a private lot which is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access;
- (b) the actual occupation area does not tally with the Site. It is noted that there are structures erected on the lot. The structures are not acceptable under the Lease concerned. His office reserves the right to take necessary lease enforcement action against the unauthorized structures; and
- (c) if the application is approved, the applicant shall apply to his office for a Short Term Waiver (STW) to cover all the said unauthorized 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, its commencement date will be backdated to the first date of occupation and 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

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

after reviewing the assessment on traffic impact as contained in the planning statement and further information, he has no further comment on the application from the traffic engineering point of view subject to the condition that the proposed dangerous goods godown will be operated after the commissioning of the new connecting road of Liantang/Heung Yuen Wai Boundary Control Point.

Environment

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

- (a) she has no comment on the application and there was no environmental complaint against the Site during the past three years. The latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP should be observed by the applicant; and
- (b) it is noted that there is a watercourse to the north of the Site. With reference to the drainage impact assessment enclosed in **Appendix Ia**, and the handling of dangerous goods will have to comply with the Dangerous Goods Ordinance which requires proper storage and handling to prevent hazards and leakage, leakage of dangerous goods to the watercourse nearby is unlikely and the normal surface runoff from this paved site is unlikely to cause pollution. Nevertheless, the applicant is reminded that the management of construction site drainage should follow the guidelines in the Practice Note of Professional Persons Environmental Consultative Committee (ProPECC) PN1/94 to prevent water quality impact to the nearby watercourse.

Drainage

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

- (a) after considering the information submitted by the applicant, he has no in-principle objection to the application from the public drainage point of view;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact

to the adjacent area; and

- (c) the applicant should be noted that overland flow from the Site to the nearby access road is not allowed and the surface water from the Site should be collected and discharged properly to the existing drainage facility and the Site is in an area where no public sewerage connection is available.

Building Matters

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

- (a) there is no record of submission of the proposed temporary buildings/structures to the Building Authority (BA) for approval. The proposed temporary buildings/structures are subject to control of Part VII of the Building (Planning) Regulations (B(P)Rs) and require prior approval and consent under the Buildings Ordinance (BO);
- (b) if the existing structures are erected on lease land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance and should not be designated for any approved use under the application;
- (c) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized buildings works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (d) for UBW erected on leased land, enforcement action may be taken by 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;
- (e) if the proposed use under application is subject to the issue of a licence, please be reminded that 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;
- (f) 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 B(P)Rs respectively; and
- (g) 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.

Nature Conservation

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

- (a) the Site is a disturbed site, she has no comment on the application from nature conservation point of view; and
- (b) a watercourse is located to the north of the Site, should the application be approved, the applicant is advised to perform good site practice to prevent the surface run-off and debris from polluting the watercourse.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
- (c) the applicant should note the following guidelines:
 - (i) separate siting approval for the temporary 'Dangerous Goods Godown' shall be sought from his department via submission of general building plans (GBPs) through the Centralized Processing System of BD;
 - (ii) detailed design of the dangerous goods store/ manufacturing plant together with the proposed risk mitigation measures and the provision of FSI shall be included in the GBP submission for further vetting and consideration;
 - (iii) formal Dangerous Goods licence application for the dangerous goods store/ manufacturing plant shall be submitted by the applicant in accordance with "A Guide to Application for Dangerous Goods Licence". Detailed Fire Safety Requirements will be formulated upon receipt of the application; and
 - (iv) the operation of the proposed dangerous goods store/ manufacturing plant should comply with the legal provisions relating to approval, examination and testing of gas cylinders under the Dangerous Goods Ordinance (Cap. 295).

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies 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 nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Electricity Supply Safety

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

- (a) he has no comment on the application from electricity supply safety aspect; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the applicant or 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. The applicant 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.

District Officer's Comments

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

he has consulted the locals regarding the application. The Vice-Chairman of Ta Kwu Ling District Rural Committee objects to the application as existing roads are overloaded and road improvement works should be carried out first, whereas the incumbent North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative and Resident Representative of Ping Che have no comment on the application.

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 24.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received (**Appendix IV**). A NDC member and the Chairman of Sheung Shui District Rural Committee indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The Site falls within Category 1 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) promulgated by the Board on 17.10.2008. The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.2 The Site falls within the “OS” zone in which dangerous goods godown and industrial use (not else specified) require planning permission from the Board. The proposed development is not entirely in line with the planning intention of the “OS” zone, which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses which cannot be accommodated in conventional godown premises. Nevertheless, it is considered that the approval of the application on a temporary basis for a period of five years would not frustrate the planning intention of “OS” zone on the OZP. Moreover, the proposed development is considered not incompatible with the surrounding rural landscape character dominated by open storage uses.

12.3 The proposed dangerous goods godown is for processing and storage of fire protection fluid that is pressurized by nitrogen and stored in gas cylinders for firefighting purpose. The fire protection fluid is classified as Category 2 Compresses Gases, Class 2 (Liquefied Gases) under the Dangerous Goods (Application and Exemption) Regulations. The proposed storage amount on Site is about six nitrogen cylinders and 2,000kg of the fluid. Apart from planning considerations, the proposed development is also required to fulfill other requirements by relevant Government departments, in particular the fire safety requirements by FSD. D of FS advises that the operation of the proposed dangerous goods store/ manufacturing plant should comply with the legal provisions relating to approval, examination and testing of gas cylinders under the Dangerous Goods Ordinance (Cap. 295). In addition, the applicant shall submit formal Dangerous Goods licence application for the dangerous goods store/ manufacturing plant and fulfill the detailed fire safety requirements prior the operation of the subject godown, including the nature of goods and their quantity under application.

12.4 C for T has no comment on the application from the traffic engineering point of

view subject to the condition that the proposed dangerous goods godown will be operated after the commissioning of the new connecting road of Liantang/Heung Yuen Wai Boundary Control Point in end 2018. Given the proposed dangerous goods godown is relatively small in size (with a total floor area of about 51 m²), the proposed development is not expected to have significant adverse environmental, drainage and landscape impacts on the surrounding area. The proposed development also requires to fulfill relevant requirements, in particular on the fire safety aspect by FSD. Relevant departments consulted including D of FS, DEP, DEMS, CE/MN of DSD and CTP/UD&L, PlanD have no adverse comment on or no objection to the application. As the Site is located to the north of a watercourse, DEP and DAFC state that the applicant should be advised to perform good site practice to prevent the surface run-off and debris from polluting the watercourse nearby and observe relevant guidelines. Besides, the applicant would also be advised to follow the environmental mitigation measures as recommended in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the potential environmental impacts on the adjacent area.

- 12.5 The application generally complies with the Town Planning Board Guidelines PG-No. 13E for 'Application for Open Storage and Port Back-up Uses' in that no major adverse departmental comments and local objections have been received on the application and traffic impact assessment and drainage impact assessment have been submitted to demonstrate no adverse traffic and drainage impacts of the application on the surrounding areas.
- 12.6 There are two similar applications No. A/NE-TKL/305 and 463 for temporary dangerous goods godown within "OS" zone in the vicinity of the Site approved with conditions by the Committee or by the Board on review in 2008 and 2014 respectively mainly on the considerations that approval of the developments would not frustrate the planning intention of the "OS" zone on the OZP and the applications complied with the TPB PG-No. 13E in that there were no major adverse departmental comments received and local objections could be addressed through the implementation of approval conditions. Nevertheless, both applications were subsequently revoked in 2009 and 2014 respectively due to the non-compliance with approval conditions.
- 12.7 There is a local objection conveyed by DO(N), HAD against the application mainly on the ground that existing roads are overloaded and road improvement works should be carried out first. In this regard, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and public comments in paragraph 11 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 5 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 18.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 2:00 p.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation of the proposed development, as proposed by the applicant, is allowed before the commissioning of the new connecting road of Liantang/Heung Yuen Wai Boundary Control Point;
- (d) 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 18.11.2018;
- (e) the submission of proposals for water supplies for firefighting 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 18.11.2018;
- (f) in relation to (e) above, the provision of water supplies for firefighting 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 18.2.2019;
- (g) the submission of 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 18.11.2018;
- (h) in relation to (g) 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 18.2.2019;
- (i) if any of the above planning conditions (a), (b) or (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (d), (e), (f), (g) or (h) 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.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "OS"

zone which is primarily for the provision of land for appropriate open storage uses and to regularize 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Attachments received on 15.11.2017
Appendix Ia	Planning Statement
Appendix Ib	Letter dated 22.12.2017 requesting for deferment of consideration of the application
Appendix Ic	Further Information received on 15.1.2018
Appendix Id	Letter dated 22.2.2018 requesting for deferment of consideration of the application
Appendix Ie	Further Information received on 28.3.2018
Appendix If	Further Information received on 25.4.2018
Appendix II	Relevant Extract of TPB PG-No. 13E for Application for Open Storage and Port Back-up Uses
Appendix III	Similar s.16 Applications within / partly within the "OS" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Access Arrangement Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos