

RNTPC Paper No. A/YL-PH/758
For Consideration by
the Rural and New Town
Planning Committee
on 24.11.2017

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/758

<u>Applicant</u>	: Mr. TANG Wai Leung Billy represented by Mr. CHENG Ka Cheung and Mr. CHONG Kim Wah
<u>Site</u>	: Lots 56(Part), 61(Part) and 62(Part) in D.D. 114, Pat Heung, Yuen Long
<u>Site Area</u>	: About 2,833 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: "Agriculture" ("AGR")
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Private Cars, Lorries and Coaches) 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 public vehicle park (private cars, lorries and coaches) for a period of 3 years. Part of the Site was the subject of two previous applications (No. A/YL-PH/333 and 401) for temporary open storage which were rejected by the Rural and New Town Planning Committee (the Committee) or by the Town Planning Board (the Board) in 2000 and 2002 respectively. The Site is partly paved, and partly parked by vehicles and partly vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the Site will provide a total of 32 parking spaces, including 18 for private car, 8 for lorry and 6 for coach parking, and a single-storey structure (about 3m in height) with a total area of about 15m² to be used as guard room. The operation hours are from 8 a.m. to 6 p.m. Mondays to Saturdays. There will be no operation on Sundays and public holiday. No workshops activities will be carried out on site. The Site is accessible via a local track branching off Kam Tin Road. The layout plan with access arrangement submitted by the applicant is in **Drawing A-1**.

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

- (a) Application form with plans and site photos received on 28.9.2017 (Appendix I)
- (b) Supplementary Information (SI) received on 3.10.2017 (Appendix Ia)
- (c) Further Information (FI) submitted on 13.11.2017 in response to departmental comments (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the application form and FI in **Appendices Ia and Ib**. They can be summarized as follows:

There is no proper car parking space in the village which causes traffic jam and affect safety of villagers. The proposed use can improve the traffic condition in the village.

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 sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Part of the Site (i.e. Lots 61 (Part) and 62 (Part) in D.D. 114) (about 30%) is the subject of a planning enforcement action (No. E/YL-PH/753) alleging for storage use with Enforcement Notice (EN) issued to the responsible persons on 8.2.2017. As the EN has not been complied with, further enforcement/prosecution action is considered to be taken against the responsible persons.

5. Previous Applications

- 5.1 A portion (about 30%) at the eastern part the Site was involved in 2 previous applications (No. A/YL-PH/333 and 401) for temporary open storage of vehicles and vehicle parts prior to sale/temporary open storage of new and old vehicles and vehicle parts submitted by different applicants of the current application. Details are summarized in **Appendix II** and the location is shown on **Plan A-1**.

- 5.2 Both applications were rejected by the Committee or by the Board on review on 30.6.2000 and 4.10.2002 respectively. They were rejected mainly on the grounds that the developments were not in line with the planning intention of the "AGR" zone and were incompatible with the surrounding rural land uses; insufficient information to demonstrate the development would not have adverse drainage impact; and approval of the applications would set undesirable precedents for similar uses to proliferate into the "AGR" zone.

6. Similar Application

There is no similar application for the proposed use within the subject "AGR" zone.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2)

7.1 The Site is:

- (a) partly paved and partly parked by vehicles and partly vacant; and
- (b) accessible via a local track branching off Kam Tin Road.

7.2 The surrounding areas are intermixed with plant nurseries, cultivated agricultural land, a residential dwelling/structure, open storage/yards, and vacant/unused land. Most of the open storage yards within the "AGR" zone are suspected unauthorised development subject to enforcement action by the Planning Authority:

- (a) to its immediate east is a local track and vacant land and further east are some open storage of vehicles under the "Open Storage" zone. A residential dwelling/structure is located at its northeast;
- (b) to its south is a plant nursey;
- (c) to its west are some plant nurseries, open storage yards of vehicle and construction materials and vacant land; and
- (d) to its north are open storage yards of vehicle, vacant/unused land and cultivated agricultural land.

8. Planning Intention

The planning intention of the "AGR" zone is to 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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Scheduled 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) The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office if any structure to be erected on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord 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):

He has no comment on the application from traffic engineering perspective. The following clauses should be incorporated into approval condition and advisory clause respectively:

- (a) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should

be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) HyD is not/shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint received for the Site in the past three years. However, he does not support the application as the proposed use involves heavy vehicles and there is sensitive receiver, i.e. residential dwelling located to the northeast (about 60m away) of the Site (Plan A-2), and environmental nuisances are expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" issued by DEP.

Landscape

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

- (a) He has some reservation to the application from the landscape planning point of view.
- (b) With reference to aerial photo in October 2016, the Site is situated in an area of rural landscape character comprising of open storage, warehouses, cultivated farmlands and scattered tree groups in its vicinity. Although the proposed use is not incompatible to the surrounding environment, it is not in line with the planning intention of "AGR" zone which is to retain and safeguard good quality agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation.

- (c) According to the site photos submitted by the applicant, the Site has been cleared and hard-paved. Although adverse landscape impact is not anticipated through the use of the Site as temporary vehicle park, approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. Cumulative effect of approving similar applications would result in degradation of landscape resources/character and cause adverse landscape impact of the area.
- (d) Should the Board approve the application, approval condition on submission and implementation of the landscape proposal should be included.

Agriculture

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

As there are active agricultural activities in the vicinity of the Site and the Site possess potential for agricultural rehabilitation, he does not support the application from agricultural point of view.

Drainage

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

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal for the development and implementation and maintenance of the drainage proposal should be included in the planning permission.

Water Supply

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

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her 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 standards.

Fire Safety

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

- (a) He has no in principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) 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

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

- (a) 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 Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application.
- (c) 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.

- (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)R) respectively.
- (e) 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.

Electricity

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

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

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

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

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

- (a) Project Manager(New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD) ; and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 6.10.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.10.2017, three public comments were received from Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong and a general public objecting the application (**Appendices III-1 to III-3**) mainly for the reasons that the proposed use is not in line with the planning intention of the “AGR” zone; part of the Site is subject to two rejected applications (**Plan A-1**); the application appears to be to legitimize an existing unapproved use; this is an inefficient land use and car parks should be accommodated in high rise buildings, underground, stacked facilities or ground floor of village houses; and approval of the application would set an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The proposed temporary public vehicle park (private cars, lorries and coaches) falls within the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also intended 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 intention of the “AGR” zone. DAFC does not support the application as the Site has potential for agricultural rehabilitation. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis.
- 11.2 The surrounding land uses are a mixture of plant nurseries, cultivated agricultural land, a residential dwelling/structure and some open storage/yards. While there are some open storage yards within the “AGR” zone (**Plan A-2**), however, it is noted that most of them are suspected unauthorized developments subject to enforcement action by the Planning Authority. CTP/UD&L of PlanD has some reservation on the application as approval of the application would set an undesirable precedent for other similar applications within the “AGR” zone, and cumulative effect of approving similar applications would result in degradation of landscape resources/character and cause adverse landscape impact of the area.
- 11.3 DEP also does not support the application as the proposed use involves heavy vehicles and there is sensitive receiver, i.e. residential dwelling located to the northeast (about 60m away) of the Site, and environmental nuisances are expected. There is no similar application for public vehicle park within the same “AGR” zone on the OZP. The approval of the current application would set an undesirable precedent for similar applications within this part of the “AGR” zone. The cumulative effect of approving such applications would result in general degradation of the rural environment of the area.
- 11.4 Three public comments objecting the application were received as stated in paragraph 10 above. In this regard, the planning assessments and considerations 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 in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications ~~(to proliferate into this part of the "AGR" zone.~~ The cumulative effect of approving such application would result in a general degradation of the rural environment of the area.

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 24.11.2020. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no heavy goods vehicles exceeding 24 tonnes, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) a notice should be posted at a prominent location of the Site to indicate that no heavy goods vehicles exceeding 24 tonnes, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;

- (f) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) the submission of 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 24.5.2018;
- (i) in relation to (h) above, the implementation of 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 24.8.2018;
- (j) 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 24.5.2018;
- (k) in relation to (j) above, the implementation of drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.8.2018;
- (l) in relation to (k) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (m) the submission 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 24.5.2018;
- (n) in relation to (m) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.8.2018;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (l) 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;
- (p) if any of the above planning conditions (h), (i), (j), (k), (m) or (n) 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

- (q) upon 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 attached at **Appendix IV**.

13. Decision Sought

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

14. Attachments

Appendix I	Application form with plans and site photos received on 28.9.2017
Appendix Ia	SI received on 3.10.2017
Appendix Ib	FI submitted on 13.11.2017 in response to departmental comments
Appendix II	Previous s.16 Applications covering part of the Application Site
Appendices III-1 to III-3	Public comment received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2017**

Previous s.16 Applications covering part of the Application Site

Rejected Applications

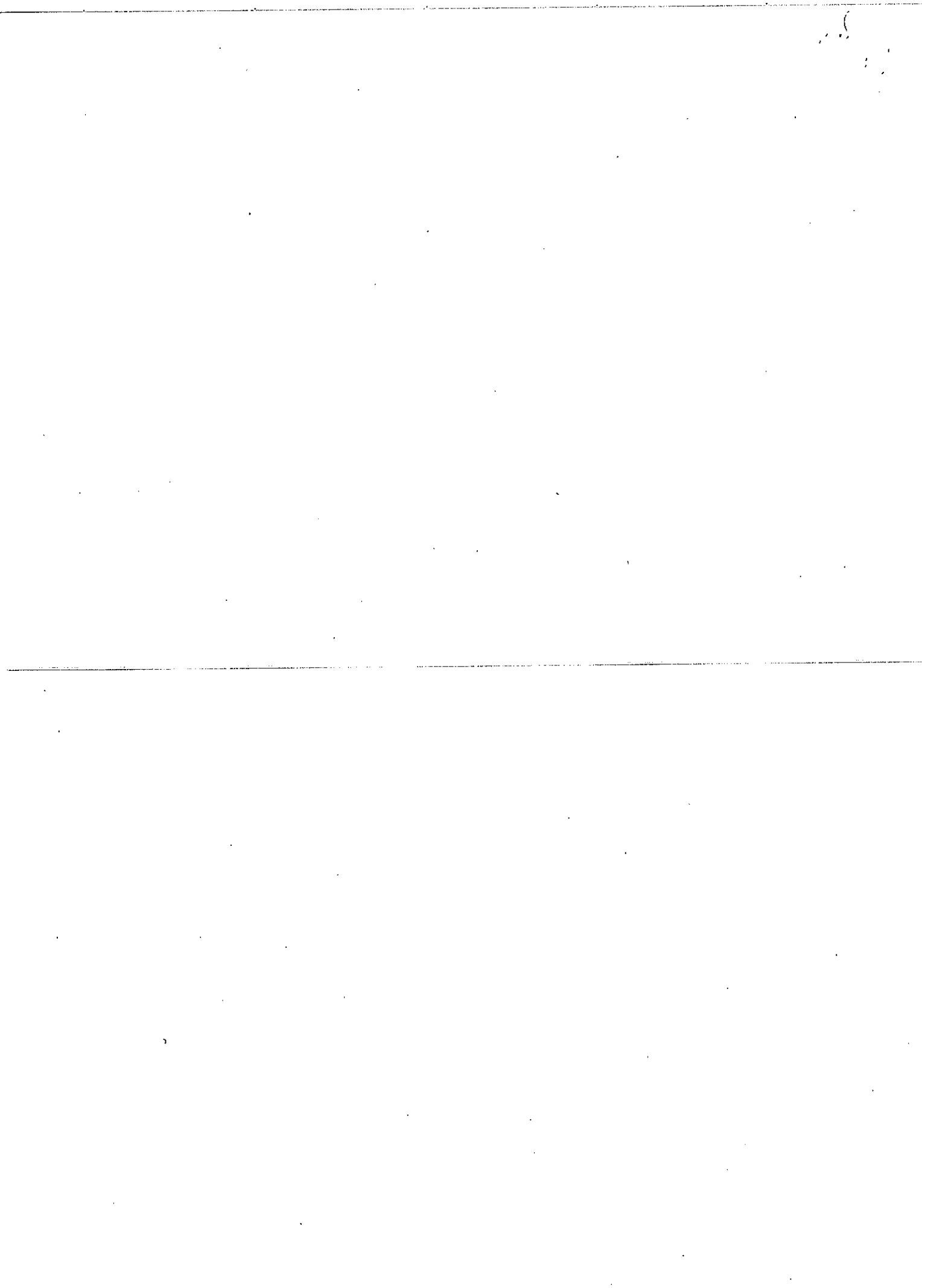
	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB /Appeal Board)</u>	<u>Reasons for Rejection</u>
1	A/YL-PH/333	Temporary Open Storage of Vehicles and Vehicle Parts Prior to Sale for a Period of 3 Years	30.6.2000	(1), (2), (3), (4)
2	A/YL-PH/401	Proposed Temporary Open Storage of New and Old Vehicles and Vehicle Parts for a Period of 18 Months	4.10.2002 on review	(1), (2), (3)

* Both applications straddle partly within the "OS" zone and partly within the same "AGR" zone.

Rejection Reasons

1. Part of the proposed development falling within the "AGR" zone was not in line with the planning intention of the "AGR" zone. There was no strong justification has been given in the submission for a departure from the planning intention even on a temporary basis.
2. The approval of the application would set an undesirable precedent for similar uses, the cumulative effect of approving similar applications would result in general degradation of the environment of the area.
3. The part of the proposed development in "AGR" zone is not compatible with the surrounding area which are predominately rural in character with cultivated/fallow agricultural land and/or plant nursery.
4. There was insufficient information in the submission to demonstrate that the proposed development would not have adverse drainage impact on the surrounding areas.

11



Advisory Clauses

- (a) resolve any land issue relating to the development with the concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises Old Scheduled 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. The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA. The lot owner(s) will need to apply to his office if any structure to be erected on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord 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;
- (c) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that HyD is not/shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" issued by DEP;
- (f) note CE/C, WSD's comments that for provision of water supply to the development, the applicant may need to extend his/her 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 standards;
- (g) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. 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;

- (h) note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application. 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. 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. If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage; and
- (i) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

Agenda Item 15

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/758 Proposed Temporary Public Vehicle Park (Private Cars, Lorries and Coaches) for a Period of 3 Years in "Agriculture" Zone, Lots 56 (Part), 61 (Part) and 62 (Part) in D.D. 114, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-PH/758)

49. The Secretary reported that the application site was located in Pat Heung. Ms Janice W.M. Lai had declared an interest on the item as her family member owned a property at Leung Uk Tsuen, Pat Heung. The Committee noted that Ms Janice W.M. Lai had not yet arrived to join the meeting.

Presentation and Question Sessions

50. Ms Ivy C.W. Wong, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed temporary public vehicle park (private cars, lorries and coaches) for a period of three years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Director of Environmental Protection (DEP) did not support the application as there was a sensitive receiver of residential use in the vicinity of the site and environmental nuisance was expected. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as there were active agricultural activities in the vicinity of the site and the site possessed potential for agricultural rehabilitation. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had some reservation on the application as the proposed use was not in line with the planning intention of “Agriculture” (“AGR”) zone and approval of the application would set an undesirable precedent for other similar applications within the “AGR” zone. Other concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication periods, three public comments objecting to the application were received from Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited and a general public. Major objection grounds were set out in paragraph 10 of the Paper; and
- (e) PlanD’s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The proposed development was not in line with the planning intention of the “AGR” zone. The site had potential for agricultural rehabilitation and DAFC did not support the application. No strong planning justification had been given in the submission to justify for a departure from the planning intention, even on a temporary basis. CTP/UD&L, PlanD had reservation on the application as approval of the application would set an undesirable precedent for other similar applications within the “AGR” zone, and cumulative effect of approving similar applications would result in

degradation of landscape resources/character and cause adverse landscape impact on the area. DEP did not support the application as the proposed use involved heavy vehicles and there was a sensitive receiver in the vicinity of the site and environmental nuisances were expected. There was no similar application for public vehicle park within the same "AGR" zone. Regarding the public comments received, the comments of government departments and the planning assessments above were relevant.

51. Members had no question on the application.

Deliberation Session

52. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is to retain and safeguard good quality agricultural land/ farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into this part of the “AGR” zone. The cumulative effect of approving such application would result in a general degradation of the rural environment of the area.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-PH/758

By Registered Post & Fax (

8 December 2017

Cheng Ka Cheung & Chong Kim Wah

Yuen Long, New Territories

Dear Sir/Madam,

**Proposed Temporary Public Vehicle Park (Private Cars,
Lorries and Coaches) for a Period of 3 Years in "Agriculture" Zone,
Lots 56 (Part), 61 (Part) and 62 (Part) in D.D. 114, Pat Heung, Yuen Long**

I refer to my letter to you dated 20.11.2017.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) you fail to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into this part of the "AGR" zone. The cumulative effect of approving such application would result in a general degradation of the rural environment of the area.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 24.11.2017, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before

29.12.2017). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Ivy Wong of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6297.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

(With Chinese Translation)

Previous s.16 Applications covering part of the Application Site

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB /Appeal Board)</u>	<u>Reasons for Rejection</u>
1	A/YL-PH/333	Temporary Open Storage of Vehicles and Vehicle Parts Prior to Sale for a Period of 3 Years	30.6.2000	(1), (2), (3), (4)
2	A/YL-PH/401	Proposed Temporary Open Storage of New and Old Vehicles and Vehicle Parts for a Period of 18 Months	4.10.2002 on review	(1), (2), (3)

* Both applications straddle partly within the "OS" zone and partly within the same "AGR" zone.

Rejection Reasons

- (1) Part of the proposed development falling within the "AGR" zone was not in line with the planning intention of the "AGR" zone. There was no strong justification has been given in the submission for a departure from the planning intention even on a temporary basis.
- (2) The approval of the application would set an undesirable precedent for similar uses, the cumulative effect of approving similar applications would result in general degradation of the environment of the area.
- (3) The part of the proposed development in "AGR" zone is not compatible with the surrounding area which are predominately rural in character with cultivated/fallow agricultural land and/or plant nursery.
- (4) There was insufficient information in the submission to demonstrate that the proposed development would not have adverse drainage impact on the surrounding areas.

**Annex F of
TPB Paper No. 10399**

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

1. He has the following comments on the submitted drainage proposal:
 - (i) The gradients and the dimension of the proposed u-channels should be shown on the drainage plan.
 - (ii) The applicant should maintain the natural streamcourse within the Site.
 - (iii) Peripheral channel should be provided along the site boundary to intercept any obstructed overland flow.
 - (iv) The invert levels of the proposed catchpits should be shown on the drainage plan for reference.
 - (v) The existing drainage facilities, to which the stormwater of the development from the Site would discharge, should be indicated on plan. The relevant connection details should be provided for comment.
 - (vi) The existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposal works. In the case that it is a local village drains, DO/YL should be consulted.
 - (vii) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the proposed development.
 - (viii) The location and details of the proposed hoarding/peripheral wall should be shown on the proposed drainage plan.
 - (ix) Cross sections showing the existing and proposed ground levels of the Site with respect to the adjacent areas should be given.
 - (x) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
 - (xi) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
 - (xii) The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.

Advisory Clauses

- (a) resolve any land issue relating to the development with the concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises Old Scheduled 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. The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA. The lot owner(s) will need to apply to his office if any structure to be erected on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord 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;
- (c) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that HyD is not/shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" issued by DEP;
- (f) note CE/MN, DSD's comments at **Annex F** of the TPB paper;
- (g) note CE/C, WSD's comments that for provision of water supply to the development, the applicant may need to extend his/her 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 standards;
- (h) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the

layout plans. 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;

- (i) note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application. 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. 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. If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage; and
- (j) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.