

RNTPC Paper No. A/YL-PH/774
For Consideration by
the Rural and New Town
Planning Committee
on 6.4.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/774

<u>Applicant</u>	: Mr. TANG Kwan represented by Chief Force Limited
<u>Site</u>	: Lot 357 in D.D. 110, Tsat Sing Kong, Pat Heung, Yuen Long
<u>Site Area</u>	: About 3,502m 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 Open Storage of Construction Machinery and Equipment with Ancillary Office and Staff Rest Room 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 open storage of construction machinery and equipment with ancillary office and staff rest room for a period of 3 years. The Site is currently vacant and covered by vegetation. The Site is not subject to any previous application (Plans A-2 to A-4).
- 1.2 According to the applicant, two one-storey temporary structures with a total floor area of about 98m² for office, staff rest room and portable toilet will be provided within the Site. 2 private car parking spaces and 3 loading/unloading spaces for heavy goods vehicle are proposed on site. The operation hours are from 9 a.m. to 6 p.m. Monday to Saturday, and no operation on Sundays and public holidays. No workshop related activities will be carried out on the Site. The Site will be accessed to Kam Tai Road via a local track and an open storage yard. The layout plan, landscape proposal and vehicular access plan as submitted by the applicant are at Drawings A-1 to A-3.

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

- (a) Application form with planning statement and plans (Appendix I) dated 15.2.2018
- (b) Further Information (FI) received on 13.3.2018 in (Appendix Ia) response to departmental comments
- (c) Further Information received on 22.3.2018 clarifying (Appendix Ib) the landscape proposal

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 in Appendix I. They can be summarized as follows:

- (a) The proposed use is temporary in nature which will not jeopardize the long-term planning intention of the "AGR" zone. The proposal could utilize the Site which is currently vacant. Also, there will be no conflict with the uses in the vicinity of the Site which are mainly occupied by open storage yards.
- (b) Flooding and adverse drainage impacts are not expected as there has been no such issues at the Site since the first Pat Heung Development Permission Area Plan.
- (c) Adverse traffic impacts are not expected since trip generation is low and there is sufficient manoeuvring space provided at the Site.
- (d) The proposed development would not generate severe noise impacts as the stored materials are mainly non-dangerous and non-polluting construction machinery. In accordance with the requirements under Town Planning Board Guidelines No. 13E for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No.13E), materials will be stored 2m away from the site boundary.

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 notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Site falls within Category 3 areas under the Town Planning Board Guidelines No. 13E for "Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13E) promulgated by the Town Planning Board (the Board) on 17.10.2008. The relevant extract of the Guidelines is attached at Appendix II.

5. Background

The Site is currently not a subject of any active planning enforcement case. Notwithstanding, if there are suspected unauthorized development found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the said use is an unauthorized development under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be instigated.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Applications

- 7.1 There are 23 similar applications (No. A/YL-KTN/338, 339, 341, 343, 355, 363, 364, 373, 386, 399, 441, 442, 452, 517, 553, 559 and 578; and A/YL-PH/618, 682, 697, 700, 739 and 751) for various temporary open storage and / or public vehicle park uses within the same "AGR" zone straddling the Pat Heung and Kam Tin North OZP since the promulgation of the TPB PG-No.13E on 17.10.2008. Details are summarized in Appendix III and their locations are shown on Plan A-1.

Open storage uses in Category 2 areas

- 7.2 12 applications No. A/YL-KTN/338, 339, 341, 355, 364, 373, 399, 442, 452, 517, 553 and 578 for various open storage uses were approved with conditions by the Committee on 15.1.2010 (for both Applications No. A/YL-KTN/338 and 339); 29.1.2010, 1.4.2011, 21.10.2011, 10.2.2012, 24.5.2013, 23.5.2014, 17.10.2014, 10.6.2016, 7.4.2017 and 22.12.2017 respectively on similar considerations that the sites fell within Category 2 areas under TPG PG-No. 13E; and the proposed developments were in line with TPB PG-No. 13E in that the relevant departments had no adverse comment and the environmental or landscape concerns of the relevant departments could be addressed by appropriate approval conditions. However, Applications No. A/YL-KTN/338, 339, 341 and 373 were revoked on 15.11.2010 (for both

Applications No. A/YL-KTN/338 and 339), 29.11.2010 and 10.11.2012 respectively due to non-compliance with approval conditions.

Open storage uses in Category 3 areas

- 7.3 Four applications No. A/YL-KTN/386, A/YL-PH/697, 700 and 751 for temporary open storage uses (and parking of lorries and private cars for A/YL-PH/697) were rejected by the Committee or the Board on review on 6.7.2012, 29.5.2015, 26.9.2014 and 11.8.2017 respectively for reasons that the development did not comply TPB PG No. 13E in that the sites fell within Category 3 areas and there was no previous planning approval had been granted and there were adverse departmental comments and local objection; the developments were not in line with the planning intention of "AGR" zone; there was insufficient information to demonstrate the developments would not cause adverse environmental, drainage and landscape impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent.
- 7.4 Seven other applications (No. A/YL-KTN/343, 363, 441 and 559, A/YL-PH/618, 682 and 739 on two sites) falling within Category 3 areas on the Kam Tin North and Pat Heung OZPs for various open storage use were approved with conditions by the Committee between 2010 and 2017 respectively on similar sympathetic considerations that the original sites were resumed for the XRL project and the applicant had spent efforts in identifying site for continuous operation of his business for temporary open storage; the developments were not incompatible with the surrounding land uses and the site was situated next to the Category 2 areas under TPG PG-No. 13E where there were various existing open storage uses; and the concerns of the relevant government departments could be addressed by the appropriate approval conditions. For application No. A/YL-KTN/343, it was also considered that the application had unique background and circumstances; and approval of the application should not be considered as precedent for other applications within the same Category 3 areas. Application No. A/YL-KTN/343 was revoked on 27.8.2011 due to non-compliance with approval conditions.

8. The Site and Its Surrounding Areas (Plans A-1 to Plan A-4)

8.1 The Site is:

- (a) vacant and covered by vegetation; and
- (b) accessible to Kam Tai Road via a local track and an open storage yard.

8.2 The surrounding areas are rural and natural in character mixed with residential dwellings/structures, vacant land/unused land, agricultural/cultivated land and open storage yards:

- (a) to its immediate south are open storage yards, residential dwellings/structures and cultivated agricultural land in "Open Storage" ("OS") zone;
- (b) to its east and southeast are vacant land and residential dwellings/structures (the nearest about 30m on the southeast); and
- (c) to its west and north are unused/vacant land, cultivated agricultural land and residential dwellings/structures.

9. 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.

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/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises an Old Schedule Agricultural Lot 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 Tai 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 to the Site.
 - (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 the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or

regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD.

Traffic

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

He has no comment on the application from traffic engineering perspective. The following approval condition and advisory clause should be imposed 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 LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

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

10.1.4 Comments of the Chief Engineer/Railway Development 2-1, Railway Development Office, Highways Department (CE/RD2-1, RDO, HyD):

- (a) He has no comment on the application since the Site falls outside the scheme boundary and the protection boundary of Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL).

- (b) The applicant is reminded that the temporary access under XRL project may or may not be provided after XRL completion. The maintenance for that access is still being discussed with DO/YL, HAD. It may be narrow to one lane two way as requested by DO/YL, HAD subject to local consultation with Tsat Sing Kong Village Representatives.

Environment

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

- (a) According to the "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites", he does not support the application as there are sensitive receivers, i.e. residential structures located to the southeast (the nearest about 30m away) and in the vicinity of the Site, and environmental nuisance is 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

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

- (a) He has some reservations to the application from the landscape planning perspective.
- (b) The Site falls within an area zoned "AGR" on the approved Pat Heung OZP S/YL-PH/11. Open storages are found at the south within "OS" zone, while farmlands are spotted to the north of the Site within "AGR" zone. The Site is connected to Kam Tin Road via driveway at the west. The Site is not the subject of any previous planning application.
- (c) Based on the aerial photo on 6.10.2016, the Site is situated in an area of rural landscape character comprising of scattered tree groups, open storage, farmlands and small houses. Although the proposed use is not in line with the planning intention of "AGR" zone, it is not incompatible to the surrounding environment.

- (d) According to the site visit dated 22.3.2018, the Site is vacant and covered with weeds and groundcovers. Existing tree groups are found at the east and south of the Site. Adverse impact arising from the proposed development on landscape resources is anticipated. Also, it is observed that the southern part of the Site is a vegetated terraced landform. The proposed development would inevitably involve site formation and/or slope works. With no related information such as formation level or extent of slope works provided, impact from the proposed development to the existing trees cannot be ascertained. In addition, approval of this application would set an undesirable precedent to encourage similar applications in the "AGR" zone. The cumulative effect of approving similar applications would cause adverse landscape impact to the area and result in degradation of landscape character.
- (e) Should the application be approved by the Board, approval conditions on the submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Board should be included.
- (f) His detailed comments on the submitted landscape plan are at Appendix IV.

Agriculture

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

The site inspection revealed that the Site is a fallow abandoned land. As the Site possesses high potential for agricultural rehabilitation, he does not support the application from agricultural point of view.

Drainage

10.1.8 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 and implementation of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The submitted FSIs proposal is considered acceptable. The applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) In addition, the applicant should also be advised to adhere to the "Good Practice Guidelines for Open Storage" in Appendix V.
- (d) Having considered the nature of the open storage, approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS 251) to his department for approval.
- (e) 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.

Water Supplies

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

- (a) He has no objection to the application.
- (b) Existing water mains will be affected. A Waterworks Reserve within 1.5 meters from the centerline of the water mains shown on Plan A-2 shall be provided to his offices. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.

- (c) The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.
- (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on Plan A-2.
- (e) The developer shall bear the cost of any necessary diversion works affected by the proposed development.
- (f) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Electricity

10.1.12 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.

Building Matters

10.1.13 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.

District Officer's Comments

10.1.14 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.

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

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

11. Public Comment Received During Statutory Publication Period

On 23.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.3.2018, one public comment was received from Kadoorie Farm and Botanic Garden Corporation (Appendix VI). The commenter objects to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone; there are some rejected applications for temporary open storage/carpark in the "AGR" zone and their rejection reasons should be applied.

12. Planning Considerations and Assessments

- 12.1 According to TPB PG-No. 13E, the Site falls within Category 3 areas. The following guidelines are relevant:

Category 3 areas: Within these areas, "existing" and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications within these areas, would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

- 12.2 The proposed temporary open storage of construction machinery and equipment with ancillary office and staff rest room for a period of 3 years 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application as the Site possesses high potential for agricultural rehabilitation. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

- 12.3 While there are open storage yards located within the "OS" zone to the south of the Site, the Site is on "AGR" zone and is currently vacant and covered with vegetation. The uses in the vicinity of the Site within the "AGR" zone are mainly residential dwellings/structures and unused land. CTP/UD&L of PlanD has some reservations on the application from landscape planting perspective as adverse

impact arising from the proposed development on landscape resources is anticipated and approval of the current application would set an undesirable precedent to encourage similar application within the zone. The cumulative effect of approving such applications would cause adverse landscape impact to the area and result in degradation of landscape character.

- 12.4 The proposed use is not in line with TPB PG-No. 13E in the only “existing” and approved open storage use should be contained within Category 3 areas and further proliferation of such use is not accepted. No previous approval had been granted at the Site. Moreover, there are adverse departmental comments and public objection against the application. DEP does not support the application as there are residential structures/dwellings located in the southeast (the nearest about 30m away) and in the vicinity of the Site (Plan A-2) and environmental nuisance is expected. The applicant fails to demonstrate that the proposed development would not generate adverse environmental impacts. Hence, the current application does not warrant sympathetic consideration. 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.
- 12.5 There are 23 similar applications for various temporary open storage and / or public vehicle park uses within the same “AGR” zone straddling the Pat Heung and Kam Tin North OZP, of which 11 fell within Category 3 areas. Four applications No. A/YL-KTN/386, A/YL-PH/697, 700 and 751 (Plan A-1 and paragraph 7.3 refer) were rejected by the Committee or the Board on review between 2012 and 2017. The current application is comparable to the rejected applications mainly on the consideration, amongst others, that the proposed open storage use was not in line with the TPB PG-No. 13E in that the sites fell within Category 3 areas and there was no previous approval granted at the sites and there were adverse departmental comments and local objection. The remaining seven applications No. A/YL-KTN 343, 363, 441 and 559, A/YL-PH/618, 682 and 739 on two sites (Plan A-1) were approved with conditions by the Committee between 2010 and 2017 on sympathetic considerations as mentioned in paragraph 7.4 above. It was considered that these applications had unique background and circumstances, and approval of these applications should not be considered as precedent for other applications within the same Category 3 areas.
- 12.6 A public comment objecting the application was received as stated in paragraph 11 above. In this regard, the planning assessments and considerations above are relevant.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment in paragraph 11, 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 agricultural land for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the TPB PG-No. 13E in that there is no previous approval granted at the Site and there are adverse departmental comments and public objection against the application;
- (c) the applicant fails to demonstrate that the development would not generate adverse environmental and landscape impacts on the surrounding areas; and
- (d) 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.

13.2 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 year until 6.4.2021. 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 operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (e) 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 6.10.2018;
- (f) in relation to (e) 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 6.1.2019;
- (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 6.10.2018;
- (h) in relation to (g) 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 6.1.2019;
- (i) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 18.5.2018;
- (j) the implementation of the accepted 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 6.10.2018;
- (k) if any of the above planning conditions (a), (b), (c) or (d) 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;
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) 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
- (m) upon expiry of the planning permission, the reinstatement of the application 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 VII**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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 dated 15.2.2018
- Appendix Ia FI received on 13.3.2018 in response to departmental comments on traffic arrangement
- Appendix Ib FI received on 22.3.2018 clarifying the landscape proposal
- Appendix II Relevant extract of Town Planning Board Guideline for "Application for Open Storage and Port Back-up uses" No. 13E
- Appendix III Similar applications within the same "AGR" zone on the Pat Heung and Kam Tin North OZPs
- Appendix IV Detailed Comments from CTP/UD&L, PlanD
- Appendix V Good Practice Guidelines for Open Storage Sites
- Appendix VI Public comment received during the statutory publication period
- Appendix VII Advisory Clauses
- Drawing A-1 Layout Plan
- Drawing A-2 Landscape Proposal
- Drawing A-3 Vehicular Access Plan
- Plan A-1 Location Plan with Similar Applications
- Plan A-2 Site Plan

Plan A-3 Aerial Photo

Plan A-4 Site Photos

PLANNING DEPARTMENT
APRIL 2018

**Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13E)**

1. On 17.10.2008, the 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) were promulgated, which set out the following criteria for the various categories of area:
 - (a) 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;
 - (b) Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no 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, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;
 - (c) Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions; and
 - (d) Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
- (a) there will be a general presumption against development on sites of less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, other than sites located in major corridors, industrial/godown/workshop areas, quarrying activities or where it is demonstrated that optimum use is made of the site. This is to prevent the further proliferation of small sites in rural areas, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) port back-up sites and those types of open storage uses generating adverse noise, air pollution and visual intrusion and frequent heavy vehicle traffic should not be located adjacent to sensitive receivers such as residential dwellings, hospitals, schools and other community facilities;
 - (c) port back-up uses are major generators of traffic, with container trailer/tractor parks generating the highest traffic per unit area. In general, port back-up sites should have good access to the strategic road network, or be accessed by means of purpose built roads;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, particularly in flood prone areas or sites which would obstruct natural drainage channels and overland flow; and
 - (f) for applications involving sites with previous planning approvals, should there be no evidence to demonstrate that the applicants have made any genuine effort to comply with the approval conditions of the previous planning applications, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

**Similar Applications within the same "AGR" zone on
Kam Tin North OZP and Pat Heung OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
Kam Tin North OZP				
1.	A/YL-KTN/338	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2.	A/YL-KTN/339	Temporary Open Storage of Excavators for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3.	A/YL-KTN/341	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	29.1.2010 (for 1 year) [revoked on 29.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4.	A/YL-KTN/343	Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years	27.8.2010 [revoked on 27.8.2011]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
5.	A/YL-KTN/355	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	1.4.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6.	A/YL-KTN/363	Temporary Open Storage of Construction Materials with Ancillary Office and Storage for a Period of 3 Years	20.5.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
7.	A/YL-KTN/364	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	21.10.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
8.	A/YL-KTN/373	Temporary Open Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.2.2012 (for 1 year) [revoked on 10.11.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
9.	A/YL-KTN/399	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	24.5.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
10.	A/YL-KTN/441	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	9.5.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
11.	A/YL-KTN/442	Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Restroom for a Period of 3 Years	23.5.2014 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
12.	A/YL-KTN/452	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	17.10.2014 (for 3 years)	(1), (2), (3), (5), (6), (7), (8), (9), (10)
13.	A/YL-KTN/517	Temporary Private Car Park for Medium Goods Vehicle and Storage of Construction Materials for a Period of 3 Years	10.6.2016 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11)
14.	A/YL-KTN/553	Renewal of Planning Approval for Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Lounge for a Period of 3 Years	7.4.2017 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
15.	A/YL-KTN/559	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	12.5.2017 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)
16.	A/YL-KTN/578	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	22.12.2017 (for 3 years)	(1), (2), (3), (6), (7), (8), (9), (10)
Pat Heung OZP				
17.	A/YL-PH/618	Proposed Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	28.1.2011 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
18.	A/YL-PH/682	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	17.1.2014 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
19.	A/YL-PH/739	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	23.12.2016 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval conditions

- (1) Restriction on operation hours/time
- (2) No medium or heavy goods vehicles or container trailers/tractors
- (3) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities
- (4) Provision/ Maintenance of boundary fencing
- (5) Submission and/or implementation of landscaping proposal/ Maintenance of existing trees and landscape planting
- (6) Submission and/or implementation of drainage proposal/ Maintenance of existing drainage facilities/ Submission of record of existing drainage facilities
- (7) Submission and implementation of fire service installations proposal/ Provision of fire extinguisher(s)

- (8) Revocation of the planning approval if any of the planning conditions is not complied with by the specified date or during the planning approval period
- (9) Reinstatement of the site to an amenity area/ condition which is suitable for agricultural uses/ original state prior to the temporary open storage use
- (10) No vehicle is allowed to reverse into or out of the site/ no queuing back of vehicles to public road from the site/ restriction on vehicular access/ provision of sufficient manoeuvring space
- (11) No vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored/a notice should be posted at a prominent location of the site to indicate that no heavy goods vehicle
- (12) The site should be kept in a clean and tidy condition and the materials stored at the site should be covered up

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
Kam Tin North OZP				
1	A/YL-KTN/386	Proposed Temporary Open Storage of Vehicles with Ancillary Office for a Period of 3 Years	6.7.2012	(1), (2), (3), (4)
Pat Heung OZP				
2	A/YL-PH/697	Proposed Temporary Open Storage of Building Materials with Ancillary Office and Parking Facilities for Lorries and Private Cars for a Period of 3 Years	29.5.2015	(1), (2), (3), (4)
3	A/YL-PH/700	Proposed Temporary Open Storage of private cars and light goods vehicles for a Period of 3 Years	26.9.2014	(1), (2), (3), (4)
4	A/YL-PH/751	Proposed Temporary Open Storage of Vehicle Parts for a Period of 3 Years	11.8.2017	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the "AGR" zone. No strong justification had been given in the submission for a departure from the planning intention even on a temporary basis.
- (2) The development did not comply with the Town Planning Board Guidelines for "Open Storage and Port Back-up Uses", in that it was not compatible with the surrounding areas and/or no previous approval had been granted at the site, and adverse comment from relevant government department and local objections.
- (3) There was insufficient information in the submission to demonstrate that the development would not have adverse drainage/environmental/visual/landscape impacts on the surrounding areas.
- (4) The approval of the application would set an undesirable precedent. The cumulative effect would result in a general degradation of the environment of the area.

**Detailed Comments from the Chief Town Planner/Urban Design and Landscape,
Planning Department (CTP/UD&L, PlanD)**

Detailed Comments

1. Noting the proposed maneuver path is in conflict with existing trees at the eastern and southern part of the Site, it is advised the path to be realigned to avoid impact on existing trees.
2. Noting proposed trees are located along the proposed maneuver path of vehicles, tree protective measures, e.g. kerbs or wheel stoppers at a min. distance of 1m in front of the proposed trees, should be installed and indicated on the plan.
3. Drainage provision should be indicated on plan. Please be advised that a min. distance of 1m should be maintained between the proposed trees and drainage provision.
4. Please be reminded that all proposed trees should be planted at grade of min. 1m(W) x 1m(L) x 1.2m(soil depth) and supported with tree stakes for healthy establishment of the trees.
5. Noting a pipe runs along the eastern boundary, applicant is advised to seek comments from relevant administrative party for potential impact arising from the proposed development on it.
6. Noting the proposed vehicular access to the Site via the fenced-off area of the adjacent Site, access arrangement from relevant administrative party should be sought.

Appendix V of RNTPC
Paper No. YL-PH/774

Good Practice Guidelines for Open Storage Sites

		Internal access for fire appliances	Lot boundaries (clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m		
3.	Open Storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage/recycling site.

- (a) To address the approval condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval.
- (b) Should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed, the applicant is required to provide justifications to his department for consideration.

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owners of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises an Old Schedule Agricultural Lot 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 Tai 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 to the Site. 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 to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the 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 LandsD. 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 his offices is not and shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tai Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note CE/RD2-1, RDO, HyD's comments that the temporary access under the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project may or may not be provided after XRL completion. The maintenance for that access is still being discussed with DO/YL,HAD. It may be narrow to one lane two way as requested by DO/YL,HAD subjection to local consultation with Tsat Sing Kong Village Representatives;
- (f) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (g) note CTP/UD&L, PlanD's comments at **Appendix IV** of this RNTPC paper;
- (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, 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. 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 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. 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 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;

- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. In addition, the applicant should also be advised to adhere to the "Good Practice Guidelines for Open Storage" in Appendix V of the RNTPC paper. To address the approval condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. 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;
- (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; and
- (k) note CE/C, WSD's comments that existing water mains will be affected. A Waterworks Reserve within 1.5 meters from the centerline of the water mains shown on Plan A-2 of the RNTPC paper shall be provided to his offices. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose. The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority. No trees or shrubs with

penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2** of the RNTPC paper. The developer shall bear the cost of any necessary diversion works affected by the proposed development. Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

TOWN PLANNING BOARD

Minutes of 600th Meeting of the
Rural and New Town Planning Committee held at 2:30 p.m. on 6.4.2018

Director of Planning
Mr Raymond K.W. Lee

Chairman

Mr H.W. Cheung

Vice-chairman

Mr Ivan C.S. Fu

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Mr K.K. Cheung

Dr C.H. Hau

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Mr L.T. Kwok

Mr Ricky W.Y. Yu

satisfaction of the Director of Fire Services or of the TPB by 6.1.2019;

- (n) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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
- (o) if any of the above planning conditions (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."

98. The Committee also agreed to advise the applicant to note the advisory clauses as set out at Appendix VI of the Paper.

Agenda Item 29
Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/774 Proposed Temporary Open Storage of Construction Machinery and Equipment with Ancillary Office and Staff Rest Room for a Period of 3 Years in "Agriculture" Zone, Lot 357 in D.D. 110, Tsat Sing Kong, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-PH/774)

Presentation and Question Sessions

99. 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 open storage of construction machinery and equipment with ancillary office and staff rest room for a period of three

years;

- (c) departmental comments – departmental comments were set out in paragraph 10 of the Paper. The Director of Environmental Protection did not support the application as there were sensitive receivers in the vicinity of the site and environmental nuisance was expected. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from agricultural point of view as the site was fallow abandoned land and it possessed high potential for agricultural rehabilitation. The Chief Town Planner/Urban Design & Landscape, Planning Department (PlanD) had reservation on the application from landscape planning perspective as adverse impact arising from the proposed development on landscape resources was anticipated and approval of the current application would set an undesirable precedent to encourage similar application within the zone. Other concerned departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, one public comment was received from the Kadoorie Farm and Botanic Garden Corporation objecting to the application. Major objection grounds were set out in paragraph 11 of the Paper; and
- (e) PlanD's views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. The proposed use was not in line with the planning intention of the "Agriculture" ("AGR") zone and DAFC did not support the application. There was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis. 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. The proposed use was not in line with the Town Planning Board Guidelines No. 13E in that the site fell within Category 3 areas, there was no previous approval granted at the site and there were adverse departmental comments

and local objection. The applicant failed to demonstrate that the proposed development would not generate adverse environmental and landscape impacts. Twenty-three similar applications within the same “AGR” zone were rejected on similar considerations. Rejection of the current application was in line with the previous decisions of the Committee on similar applications. Regarding the public comment, the comments of concerned departments and the planning assessments above were relevant.

100. Members had no question on the application.

Deliberation Session

101. 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 agricultural land for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the Town Planning Board Guidelines No. 13E in that there is no previous approval granted at the site and there are adverse departmental comments and public objection against the application;
- (c) the applicant fails to demonstrate that the development would not generate adverse environmental and landscape impacts on the surrounding areas; and
- (d) 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.”

Agenda Item 30
Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/231 Proposed Temporary Public Vehicle Park (Private Car Only) for a Period of 5 Years in “Village Type Development” Zone, Lot 1286 RP (Part) in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long
(RNTPC Paper No. A/YL-SK/231A)

Presentation and Question Sessions

102. 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 car only) for a period of five years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, three public comments were received from indigenous inhabitant representative of Sheung Tsuen, a Sheung Tsuen villager/manager of Lai Yut Wai Tso and an individual objecting to the application. Major objection grounds were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use could be tolerated for a period of five years based on the assessments set out in paragraph 11 of the Paper. The proposed use was

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/774

By Registered Post & Fax (

20 April 2018

Chief Force Ltd.

(Attn: Cheng Ka Cheung & Chong Kim Wah)

Dear Sir/Madam,

**Proposed Temporary Open Storage of Construction Machinery
and Equipment with Ancillary Office and Staff Rest Room for a Period of 3 Years
in "Agriculture" Zone, Lot 357 in D.D. 110, Tsat Sing Kong, Pat Heung, Yuen Long**

I refer to my letter to you dated 27.3.2018.

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 agricultural land for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the TPB Guidelines No. 13E in that there is no previous approval granted at the site and there are adverse departmental comments and public objection against the application;
- (c) you fail to demonstrate that the development would not generate adverse environmental and landscape impacts on the surrounding areas; and
- (d) 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 6.4.2018, 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 11.5.2018). 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)

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owners of the Site;
- (b) note DLO/YL, LandsD's comments that the Site comprises an Old Schedule Agricultural Lot 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 Tai 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 to the Site. 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 to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the 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 LandsD. 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 his offices is not and shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tai Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note CE/RD2-1, RDO, HyD's comments that the temporary access under the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project may or may not be provided after XRL completion. The maintenance for that access is still being discussed with DO/YL,HAD. It may be narrow to one lane two way as requested by DO/YL,HAD subject to local consultation with Tsat Sing Kong Village Representatives;
- (f) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (g) note CTP/UD&L, PlanD's comments that noting the proposed maneuver path is in conflict with existing trees at the eastern and southern part of the Site, it is advised the path to be realigned to avoid impact on existing trees. Noting proposed trees are located along the proposed maneuver path of vehicles, tree protective measures, e.g. kerbs or wheel stoppers at a min. distance of 1m in front of the proposed trees, should be installed and indicated on the plan. Drainage provision should be indicated on

plan. Please be advised that a min. distance of 1m should be maintained between the proposed trees and drainage provision. All proposed trees should be planted at grade of min. 1m(W) x 1m(L) x 1.2m(soil depth) and supported with tree stakes for healthy establishment of the trees. Noting a pipe runs along the eastern boundary, applicant is advised to seek comments from relevant administrative party for potential impact arising from the proposed development on it. Noting the proposed vehicular access to the Site via the fenced-off area of the adjacent Site, access arrangement from relevant administrative party should be sought;

- (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, 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. 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 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. 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 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;
- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. In addition, the applicant should also be advised to adhere to the "Good Practice Guidelines for Open Storage" in Appendix V of **Annex A** of the TPB paper. To address the approval condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. 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;
- (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; and

- (k) note CE/C, WSD's comments that existing water mains will be affected. A Waterworks Reserve within 1.5 meters from the centerline of the water mains shown on **Plan R-2** of the TPB paper shall be provided to his offices. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose. The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority. No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan R-2** of the TPB paper. The developer shall bear the cost of any necessary diversion works affected by the proposed development. Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

