

REVIEW OF APPLICATION NO. A/YL-PH/774
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**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**

1. Background

- 1.1 On 15.2.2018, the applicant, Mr. TANG Kwan represented by Chief Force Limited, sought planning permission to use the application site (the Site) for temporary open storage of construction machinery and equipment with ancillary office and staff rest room for a period of 3 years. The Site is zoned “Agriculture” (“AGR”) on the approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11 (**Plan R-1**). The Site is currently vacant and covered by vegetation (**Plans R-2 and R-4a and R-4b**).
- 1.2 On 6.4.2018, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
 - (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 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.

1.3 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/YL-PH/774 (Annex A)
- (b) Extract of minutes of the RNTPC meeting held on 6.4.2018 (Annex B)
- (c) Secretary of the Board's letter dated 20.4.2018 (Annex C)

1.4 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

2. **Application for Review**

On 2.5.2018, the applicant's representative applied, under section 17(1) of the Town Planning Ordinance, for a review of the RNTPC's decision to reject the application (Annex D). In support of the review, the applicant provided justifications, site photos, landscape and vehicular access proposals. The landscape proposals and vehicular access plan are at **Drawings R-1** and **R2**.

3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the applicant's written representation at **Annex D**. They can be summarized as follows:

- (a) The Site is abandoned agricultural land for many years and is covered by gravel/garbage. The covered soil has been washed away and the Site has lost its water storage function for agricultural activity. There is also no water source for cultivation.
- (b) The Site is adjoining the "Open Storage" ("OS") zone. The Site is zoned "AGR" in which planning permission is required for the proposed use, and the Site does not involve "destroy first, development later" case. The applicant is willing to comply with the approval conditions as stated in the RNTPC paper.
- (c) There is a lack of land for open storage of construction machinery and equipment. Most of the land within the "OS" zone has been leased or privately owned. The applicant can only identify the Site within non-open storage zone for the proposed use to continue the business which has been forced to be relocated. It was also to avoid shrinking of the open storage business in general. The applicant is not intended to set an undesirable precedent.
- (d) The applicant is willing to address the incompatibility issue with the surrounding environment, so as to utilize the abandoned land for open storage use. The proposed use cannot be operated in multi-storey building.
- (e) The proposed use is only for temporary storage purpose and does not involve industry operation. No dismantling, paint spraying and maintenance activities,

or storage of engine oil and materials that listed under the dangerous goods ordinance will be involved. The vehicular access within the Site will be covered by gravels with cement which could reduce the dust and vehicle noise. In addition, drainage system is provided within the Site and no flooding has been reported.

- (f) The Site could be accessed via Lot 398 in DD 111. Vehicles will enter/exist the Site within office hours only. The traffic flow is low and there will be no adverse impact to nearby residents. Also, the Site has been screened off by existing trees and vegetation with 3.5m high, no visual impact to the nearby residents is anticipated.

4. **The Section 16 Application**

The Site and its Surrounding Areas (Plans R-1, R-2, aerial photo on Plan R-3 and photos on Plans R-4a and R-4b)

- 4.1 The situations of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraphs 8.1 and 8.2 of **Annex A**. There has been no material change of the situations since then (**Plan R-2, R-4a to R-4c** refer).
- 4.2 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.
- 4.3 The surrounding areas are rural and natural in character mixed with residential dwellings/structures, vacant land/unused land, agricultural/cultivated land, parking of vehicles and open storage yards:
 - (a) to its immediate south are open storage yards, residential dwellings/structures and cultivated agricultural land in “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, parking of vehicles and residential dwellings/structures.

Planning Intention

- 4.4 There has been no change of planning intention of the “AGR” zone, which is mentioned in paragraph 9 of **Annex A**.
- 4.5 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.

Town Planning Board Guidelines

- 4.6 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 is relevant to the consideration of the s.16 application, is still effective. The relevant assessment criteria of the Guidelines are set out as Appendix II of **Annex A**.

Previous Application

- 4.7 The Site is not the subject of any previous application.

Similar Applications

- 4.8 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 at the time of the consideration of the s.16 application as mentioned in paragraph 7 at **Annex A**. Detailed of the applications are summarized at Appendix III of **Annex A** and their locations are shown on **Plan R-1a**. There is no new similar application since then.

Open storage uses in Category 2 areas

- 4.9 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

- 4.10 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 with 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.

- 4.11 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.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraphs 10.1 and 10.2 of **Annex A**.
- 5.2 For the review application, the relevant Government departments have been further consulted and the comments are summarized as follows:

District Officer's Comments

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

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

- 5.3 The following Government departments have no further comment on the review application and maintain their previous views on the s.16 application as stated in paragraph 10.1 of **Annex A** and recapitulated below:

Land Administration

- 5.3.1 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

5.3.2 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.

5.3.3 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.

5.3.4 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

5.3.5 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

5.3.6 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 of **Annex A**.

Agriculture

5.3.7 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

5.3.8 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 Drainage of Drainage Services or of the Board should be included.

Fire Safety

5.3.9 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 of **Annex A**.
- (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

5.3.10 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 R-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 R-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

5.3.11 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.

Building Matters

5.3.12 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.

5.4 The following Government departments have no further comment on the review application and maintain their previous views of having no comment on the s.16 application below:

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

6. Public Comments on the Review Application Received During Statutory Publication Period

On 11.5.2018, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.6.2018, two comments from the Hong Kong Bird Watching Society and a general public objecting to the application were received (**Annexes E-1 and E-2**). They object to the application mainly on the grounds that the proposed use is not line with the planning intention of the “AGR” zone; approval of the application will lead to an irreversible destruction of potential farmland and set an undesirable precedent to future similar applications; rejection of the application is in line with the Committee’s previous decision on similar applications; and the submitted plans in the review application indicated that the Site is vegetated and has good potential for rehabilitation.

7. Planning Considerations and Assessments

7.1 The application is for a review of RNTPC’s decision on 6.4.2018 to reject the application for proposed temporary open storage of construction machinery and equipment with ancillary office and staff rest room for a period of three years. The rejection reasons were that the proposed use was not in line with the planning intention; not comply with TPB PG No. 13E in that no previous approval has been granted at the Site and there was adverse departmental comment and public objecting to the application; failed to demonstrate the development would not generate adverse environmental and landscape impacts on the surrounding areas; setting an undesirable precedent and the cumulative effect of approving such applications would result in general degradation of rural environment of the area. The applicant submitted responses to the rejection reasons in support of the review application mainly on the grounds that (a) the Site is not suitable for agricultural use as is covered by gravels with the covered soil washed away; (b) the Site is adjoining the “OS” zone; there is a lack of land within the “OS” zone and the application is to utilize the abandon land for open storage use to continue the business; and (c) there will be no adverse traffic, visual, drainage and environmental impact on the nearby residents. Details are set out in paragraph 3 above. The planning considerations and assessments are appended below.

7.2 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 a temporary basis up to a maximum period of 3 years.

- 7.3 The proposed development for 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. Although the applicant stated that the Site has been left abandoned and is currently covered by gravels and has lost its water storage function for agricultural activities, 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.
- 7.4 While the applicant stated that the Site adjoins “OS” zone, it should be noted that 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, active cultivated land and unused land. In particular area to the north of the Site zoned “AGR” are mostly covered by vegetation with some active cultivated land (**Plan R-2**). 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.
- 7.5 The proposed use is not in line with TPB PG-No. 13E in that 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. Although the applicant stated that no industrial or workshop operation will be involved at the Site and dust and noise which will be minimized, 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 R-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. While the applicant stated that there is lack of land in the “OS” zone for the proposed use, there are about 96 hectares of land zoned “OS” on the Pat Heung OZP. On the other hand, 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.

- 7.6 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 R-1** and paragraph 4.10 above) 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 R-1**) were approved with conditions by the Committee between 2010 and 2017 on sympathetic considerations as mentioned in paragraph 4.11 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.
- 7.7 Two public comments were received during the statutory publication period at the s.17 review stage of the application. Both of them object to the application as stated in paragraph 6 above. In this regard, planning considerations and assessments as state in paragraphs 7.2 to 7.6 above are relevant.

8. **Planning Department’s Views**

- 8.1 Based on the assessments made in paragraph 7, and having taken into account the public comments mentioned in paragraph 6, and given that there is no major change in the planning circumstances since the consideration of the subject application by the RNTPC on 6.4.2018, the Planning Department maintains its previous view of not supporting the review 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.

- 8.2 Alternatively, should the Committee decide to approve the application, the permission shall be valid on a temporary basis for a period of 3 year until 27.7.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no 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 27.1.2019;
- (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 27.4.2019;
- (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 27.1.2019;
- (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 27.4.2019;
- (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 7.9.2018;
- (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 27.1.2019;

- (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 **Annex F**.

8. Decision Sought

- 8.1 The Board is invited to consider the application for review of the RNTPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to approve the review 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.
- 8.3 Alternatively, should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

9. Attachments

Annex A	RNTPC Paper No. A/YL-PH/774
Annex B	Extract of minutes of the RNTPC meeting held on 6.4.2018
Annex C	Secretary of the Board's letter dated 20.4.2018
Annex D	Letter dated 2.5.2018 from the applicant's representative applying for review of the application with justifications
Annexes E-1 and E-2	Public comments on the review application
Annex F	Advisory Clauses
Drawing R-1	Landscape Plan
Drawing R-2	Vehicular Access Plan
Plan R-1	Location Plan with Similar Applications
Plan R-2	Site Plan

Plan R-3

Aerial Photo

Plan R-4

Site Photos

**PLANNING DEPARTMENT
JULY 2018**

TPB Paper No. 10453

**For Consideration by
the Town Planning Board on 27.7.2018**

**REVIEW OF APPLICATION NO. A/YL-PH/774
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**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**
