

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1018

<u>Applicant</u>	: Mr. TANG Wai Ip
<u>Site</u>	: Lots 1247 (Part), 1248 (Part), 1249 (Part), 1252 (Part) and 1253 (Part) in D.D. 107, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	: About 1,559.1m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Open Storage of Construction Machineries and Materials for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction machineries and materials for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is largely fenced, paved, erected with some temporary structures and used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Shui Mei Road via local tracks (**Plans A-2 and A-3**). According to the applicant, the applied use involves an open area of about 1,291.1m² (82.8% of the Site) (**Drawing A-1**) for storage of construction machineries (such as excavators and elevated platforms) and materials (such as pipes and electric boxes) with stacking height of not more than 6m. Two loading/unloading spaces for light goods vehicle are provided. No recycling, cleansing, repairing, dismantling or other workshop activities will be undertaken at the Site. An existing tree within the Site will be retained in-situ with a tree protection zone of about 3m. The applicant also applies for regularisation of filling of land for about 1,555.1m² (or 99.7%) of the Site with concrete of not more than 0.2m in depth (to level of about 14.4mPD) for site formation and vehicular circulation (**Drawing A-2**). The operation hours are between 9:00 a.m.

and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 Northern part of the Site is the subject of a previously approved application No. A/YL-KTN/962 for the same applied use submitted by the same applicant as the current application (details at paragraph 6 below). The planning permission was revoked in March 2024 due to non-compliance with approval conditions.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 21.5.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 16.9.2024[#] **(Appendix Ia)**
 - (c) FI received on 6.1.2025[#] **(Appendix Ib)**
- [#] *accepted but not exempted from publication and recounting requirements*
- 1.5 On 19.7.2024 and 8.11.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I** to **Ib**, and can be summarised as follows:

- (a) The applied use can meet the market demand for storage use. The temporary use will not frustrate the long-term planning intention of the “AGR” zone. The applied use is not incompatible with the surrounding land uses and there were similar applications approved in the vicinity of the Site.
- (b) When compared with the previous application No. A/YL-KTN/962, a larger site area has been included in the current application after obtaining agreement with the relevant lot owners.
- (c) Sufficient space is allowed for vehicle manoeuvring within the Site and infrequent trip generation is anticipated. Adverse impacts are not anticipated. Fire extinguishers have been provided at the Site. In support of the application, the applicant has submitted drainage and fire service installations (FSIs) proposals.

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. 31B) by posting site notice and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

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. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G, and the relevant extracts of which are at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

6. Previous Application

- 6.1 Northern part of the Site is the subject of a previous application (No. A/YL-KTN/962) for temporary open storage of construction machinery and materials for a period of three years and filling of land submitted by the same applicant as the current application, which was approved with conditions by the Committee in December 2023 mainly on the considerations that the proposed use on a temporary basis could be tolerated; the proposed use was not incompatible with the surrounding land uses; the relevant government departments consulted generally had no adverse comments or the concerns could be addressed by approval conditions; and the application was in line with the Town Planning Board Guidelines for application for open storage and port back-up uses. The planning permission was subsequently revoked in March 2024 due to non-compliance with approval conditions related to submission and/or implementation of drainage and FSIs proposals and provision of fire extinguishers.
- 6.2 Details of the previous application are summarised in **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are four similar applications (A/YL-KTN/994, 1019, 1040 and 1054) for temporary open storage (including two also involving warehouse use) with filling of land within the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee in 2024 mainly on similar considerations as mentioned in paragraph 6.1 above.
- 7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) largely fenced, paved, erected with some temporary structures and used for the applied use without valid planning permission; and
- (b) accessible from Shui Mei Road via local tracks.

8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, warehouse, parking of vehicles, car services, residential structures, grassland and vacant land.

9. Planning Intention

9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from the Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided in **Appendices IV** and **V** respectively.

10.2 The following government department does not support the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally occupied by some vehicles and sundries. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Periods

On 28.5.2024, 24.9.2024 and 14.1.2025, the application and FI were published for public inspection. During the statutory public inspection periods, four public comments were received, including one from a Member of the Yuen Long Town Centre and Rural East Area Committee indicating no comment; one from nearby residents raising concerns on drainage, fire safety and environmental impacts; and two from the Conservancy Association and an individual objecting to the application mainly on the grounds that approval conditions under the previous application were not complied with; the applied use is not in line with the planning intention of the “AGR” zone; and there would be adverse drainage and environmental impacts (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction machineries and materials for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). Whilst the applied use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, there is no objection to the applied use on a temporary basis of three years with associated filling of land.

12.2 Filling of land in the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection have no objection to the application from public drainage and environmental perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.

12.3 The applied use is considered not incompatible with the surrounding areas which are rural in character with an intermix of open storage/storage yards, warehouse, parking of vehicles, car services and residential structures. The existing tree within the Site will be retained in-situ with a tree protection zone of about 3m. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that significant adverse landscape impact arising from the applied use is not anticipated.

12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three 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 use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.5 The application is considered generally in line with TPB PG-No. 13G in that the relevant departments consulted, including the Commissioner for Transport and Director of Fire Services (D of FS), have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. It is also recommended to advise the applicant to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the applied use.
- 12.6 The northern part of the Site is the subject of a previously approved application (No. A/YL-KTN/962) for the same use submitted by the same applicant as the current application as detailed in paragraph 6.1 above. Whilst the planning permission under application No. A/YL-KTN/962 was revoked in March 2024 due to non-compliance with approval conditions related to submission and/or implementation of drainage and FSIs proposals and provision of fire extinguishers, the applicant has submitted the relevant proposals under the current application and provided fire extinguishers at the Site. CE/MN, DSD has no objection to the application and D of FS considers the submitted FSIs proposal acceptable. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.7 Given that there are a previously approved application for temporary open storage and four approved similar applications within the same "AGR" zone in the vicinity of the Site in the past five years, approving the current application is in line with the Committee's previous decisions.
- 12.8 Regarding the public comments as mentioned in paragraph 11 above, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, PlanD has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 28.2.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 28.8.2025;

- (b) in relation to (a) above, the implementation of the revised 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 28.11.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.11.2025;
- (e) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (f) if any of the above planning condition (a), (b) or (d) 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
- (g) upon expiry of the planning permission, the reinstatement of the site, including the removal of hard paving and fill materials and grassing of the application site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

the applied use with associated filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form with attachments received on 21.5.2024
Appendix Ia	FI received on 16.9.2024
Appendix Ib	FI received on 6.1.2025
Appendix II	Relevant extracts of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Appendix VII	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
FEBRUARY 2025**