

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1019

<u>Applicant</u>	: TANG Wai Ip
<u>Site</u>	: Lots 1200, 1203 (Part), 1204, 1206, 1207 (Part) and 1208 (Part) in D.D. 107, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	: about 2,918.1m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Open Storage of Construction Machineries and Materials with Ancillary Facilities for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction machineries and materials with ancillary facilities for a period of three years and filling of land at the application site (the Site), which falls within an area zoned “AGR” zone on the approved Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1**). According to the covering Notes of the OZP, temporary use of land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is fenced, hard-paved and largely vacant (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed use involves two single-storey structures with a total floor area of about 108m² and building heights of not more than 4m for ancillary office and open shed (**Drawing A-1**). The majority open area will be used for open storage of construction machinery and materials. The applicant also applies for regularisation of filling of land for the whole Site with concrete by not more than 0.3m to the levels ranging from +15.6mPD to +15.9mPD for site formation and vehicular circulation (**Drawing A-2**). The operation hours will be between 9:00a.m. and 7:00p.m. from Mondays to Saturdays, with no operation on Sundays and public

holidays. Two parking spaces for private cars and one loading/unloading space for light goods vehicle are proposed at the Site. The Site is accessible from Shui Mei Road via local tracks (**Plans A-1 and A-2**). The site layout plan and the land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

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

- (a) Application form with supplementary information (Appendix I)
received on 27.5.2024
- (b) Further Information (FI) received on 11.7.2024* (Appendix Ia)
** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, the supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use is for open storage of construction machinery and materials including drainage pipes, water pipes, electrical control panels, excavators and lift platforms with stacked-up height of not more than 5m. The proposed use is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone. There were similar applications approved by the Rural and New Town Planning Committee (the Committee) of the Board in the vicinity of the Site within the same “AGR” zone. The proposed use is not incompatible with the surrounding environment.
- (b) The Site is fenced to minimise the potential noise impact generated by the proposed use and to avoid affecting the nearby watercourse. No dangerous goods will be stored within the Site and the proposed use is anticipated to generate infrequent trips. Vehicles exceeding 5.5 tonnes will not be parked/entered the Site. No dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities will be carried out on the Site. The applicant also undertakes to reinstate the Site upon expiry of the planning approval. Hence, the proposed use will not induce adverse environmental, traffic and drainage impacts on the surrounding areas.
- (c) No trees or shrubs with penetrating roots will be planted and no materials will be stored within 1.5m distance from the centre line of the water main to avoid affecting the concerned water mains within the Site. Free access will be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, maintenance and repair works.
- (d) Part of the Site involves in two approved previous applications (No. A/YL-KTN/660 and 853) for temporary hobby farm submitted by the same applicant as the current application. However, the applicant realised that the number of participants was insufficient to sustain the business during the operation. Hence, he made the decision to terminate the operation and subsequently left the Site vacant.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” of the Site 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 Members’ inspection.

4. **Background**

Part of the Site is subject to planning enforcement action (No. E/YL-KTN/672) against unauthorized development (UD) involving storage use. Enforcement Notice (EN) was issued on 27.2.2024 requiring discontinuation of the UD by 27.5.2024. Recent site inspection after the EN expiry revealed that the UD has been discontinued. The Site is currently under monitoring according to the established procedures. Another part of the Site is subject to planning enforcement action (No. E/YL-KTN/695) against UD involving filling of land. EN was issued on 15.7.2024 requiring discontinuation of the UD by 22.7.2024.

5. **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. The relevant extracts of the Guidelines are attached at **Appendix II**.

6. **Previous Applications**

- 6.1 Part of the Site is the subject of three previous applications (No. A/YL-KTN/624, 660 and 853). Application No. A/YL-KTN/624 for temporary shop and services and Applications No. A/YL-KTN/660 and 853 for temporary place of recreation, sports or culture (hobby farm) are not relevant to the current application.
- 6.2 Details of the previous applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There are two similar applications (No. A/YL-KTN/962 and 994) for temporary open storage uses with filling of land within the same “AGR” zone and within Category 2 areas under TPB PG-No. 13G in the vicinity of the Site in the past five years. Both applications were approved with conditions by the Committee in December 2023 and June 2024 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 application was generally in line with the Town Planning Board Guidelines for application for open storage and port back-up uses; and there was no adverse departmental comment or their technical concerns could be addressed by approval conditions. The planning permission under application No. A/YL-KTN/962 was subsequently revoked in March 2024 due to non-compliance with the approval conditions.

- 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 Area (Plans A-2 to A-4b)

- 8.1 The Site is:

- (a) The Site is fenced, hard-paved and largely vacant; and
- (b) accessible from Shui Mei Road via local tracks.

- 8.2 The surrounding areas are rural in character mainly intermixed with open storage/storage yards/warehouse (including sites within the “Industrial (Group D)” (“I(D)”) zone and sites with valid planning permissions for temporary warehouse under applications No. A/YL-KTN/904, 905, 920 and 963), car service, hobby farm (without valid planning permission), vacant land, grassland and residential dwellings/structures.

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 Relevant Government Departments

- 10.1 Apart from the government department as set out in 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 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 vacant. 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 and plant nurseries; and
- (c) no comment from nature conservation perspective.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the approval condition of the previous application was not complied with; and open storage is not permitted under the OZP.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction machineries and materials with ancillary facilities for a period of three years and filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily to retain and safeguard good 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. Whilst the proposed use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.
- 12.2 Filling of land within 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 the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The proposed use is considered not incompatible with the surrounding areas which are rural in character intermixed with open storage, storage yards, warehouse, vacant land and residential dwellings/structures. The Chief Town Planner/Urban Design and Landscape, Planning Department considers that significant adverse landscape impact arising from the proposed use is not anticipated and has no objection to the application

from landscape planning perspective.

- 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 relevant departments consulted including the Commissioner for Transport, DEP, CE/MN of DSD and the Director of Fire Services have no objection to or no adverse comments on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise the possible environmental nuisance generated by the proposed use.
- 12.6 There are two approved similar applications for temporary open storage uses within Category 2 areas under TPB PG-No. 13G in the vicinity in the past five years as detailed in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decisions.
- 12.7 Regarding the public comment as mentioned in paragraph 11, 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 comment in paragraph 11 above, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 19.7.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a 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 19.1.2025;
- (b) in relation to (a) above, the implementation of the 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 19.4.2025;

- (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 provision of fire extinguisher(s) 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 30.8.2024;
- (e) the submission of a 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 19.1.2025;
- (f) in relation to (e) above, the implementation of the 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 19.4.2025;
- (g) 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;
- (h) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (i) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

the proposed use with 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. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 supplementary information received on 27.5.2024
Appendix Ia	FI received on 11.7.2024
Appendix II	Relevant Extract of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government department's general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comment
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 with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to 4b	Site photos

**PLANNING DEPARTMENT
JULY 2024**