

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/798

<u>Applicant</u>	: Mr. PANG Tat-sang represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	: Lot 1376 RP (Part) in D.D. 109, Yuen Long, New Territories
<u>Site Area</u>	: About 2,228m 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/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of 5 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land. According to the Notes of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use in the “AGR” zone, which requires permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is currently vacant, covered with weeds and with some site formation works in progress (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of six one-storey structures (not more than 5m in height) with a total floor area of about 958m² for animal boarding establishment, ancillary office and ancillary toilets. The whole site is proposed to be filled with concrete by not more than 0.1m (from 7.0mPD to 7.1mPD and from 7.8mPD to 7.9mPD). Three private car parking spaces and one car parking space for light goods vehicle will be provided. The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. Not more than 20 dogs will be accommodated at the Site. According to the applicant, no public announcement system and whistle blowing will be used at the Site. All dogs will be kept inside the enclosed structures equipped with soundproofing materials and mechanical ventilation and air conditioning after the

operation hours to avoid causing noise nuisance to the nearby sensitive receivers. The Site is accessible from Kong Po Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in a previous application (No. A/YL-KTN/725) for proposed temporary animal boarding establishment (dog kennel cum dog recreation centre) submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in February 2021 with valid planning permission until February 2024 (**Plan A-1** and **Appendix II**). Nevertheless, as the applicant intends to carry out the proposed dog kennel development at a smaller site and with changes in major development parameters which fall outside the scope of Class B amendment, a fresh planning application is necessitated. A comparison of the major development parameters of the current application and the last approved application (No. A/YL-KTN/725) is given in the following table:

Major Development Parameters	Last Application No. A/YL-KTN/725 (a)	Current Application (b)	Difference (b)-(a)
Site Area (m ²)(about)	2,280	2,228	-52 (-2.28%)
Total Floor Area (m ²)	484	958	+474 (+97.93%)
Building Height (m)	3.5	5	+1.5 (+42.86%)
No. of Storey	1	1	N/A
No. of Structures	4	6	+2 (+50%)
No. of Parking Spaces			
- private car	8	3	-5 (-62.5%)
- LGV	1	1	N/A

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

- (a) Application form with supplementary information and plans received on 9.11.2021 (**Appendix I**)
- (b) Further Information (FI) received on 16.12.2021, 20.12.2021 and 21.12.2021 in response to departmental comments (**Appendix Ia**)
[exempted from publication requirement]

2. **Justifications from the Applicant**

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

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “AGR” zone.

- (b) The proposed use is small in scale. Similar animal boarding establishment applications were approved in the same “AGR” zone in the vicinity of the Site.
- (c) The proposed use can cater for huge demand for animal boarding services in the area.
- (d) No significant traffic, drainage and environmental impacts on the surroundings are anticipated.
- (e) As compared with the previous approved Application No. A/YL-KTN/725, the current application with more dogs accommodated at the Site involves a larger floor area to provide more space and a healthy, clean and comfortable living environment for the dogs. The higher headroom of the structures will allow the installation of mechanical ventilation system for daily operation. The paving of the Site is for vehicle manoeuvring and providing solid ground for circulation area and erection of structures.
- (f) No public announcement system and whistle blowing will be used at the Site and all dogs will be staying in the kennels after the operation hours. All kennels will be enclosed with soundproofing materials, equipped with mechanical ventilation and air-conditioning and kept in sanitary conditions. Animal odours and noises would be kept minimal as dog washing and dog functions will be carried out in the enclosed area.

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

The applicant is one of the “current land owners” and has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Application

The Site is the subject of a previous application (No. A/YL-KTN/725) submitted by the same applicant for same proposed use for a period of 3 years which was approved with conditions by the Committee on 26.2.2021 mainly on the considerations that temporary approval of the application would not jeopardize the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; and departments consulted generally had no objection to the application. The planning permission is valid until 26.2.2024. Nevertheless, as the applicant intends to carry out the proposed development at a smaller site and with changes in major development parameters which fall outside the scope of Class B amendment, a fresh planning

application is necessitated. Compared with the last approved application No. A/YL-KTN/725, the current application involves a smaller site area ($-52\text{m}^2/-2.28\%$) but a larger total floor area ($+474\text{m}^2/+49.5\%$) and addition of the number of structures ($+2/+50\%$). Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 18 similar applications for temporary animal boarding establishment with / without filling of land, involving 15 sites, in the vicinity of the Site within the same “AGR” zone. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

One Rejected Application

- 6.2 Application No. A/YL-KTN/156 for proposed dog kennel for a period of 3 years was rejected by the Committee on 8.11.2002 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; and there was no information in the submission to demonstrate that the proposed development would not cause adverse environmental and drainage impacts on the surrounding areas.

17 Approved Applications

- 6.3 The other 17 applications for similar applied uses, involving 14 sites and two of which with filling of land, were approved with conditions by the Committee for 2 to 5 years between November 2015 and August 2021 for similar reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; previous approvals were granted and the applicants had made effort to comply with the approval conditions; and/or the relevant government departments generally had no adverse comments on the developments. However, planning permissions for 4 applications were revoked due to non-compliance with approval conditions.
- 6.4 Apart from the above, two other applications (No. A/YL-KTN/797 and 789) for proposed temporary animal boarding establishment for a period of 3 years and 5 years respectively (both with filling of land) within the same “AGR” zone will be considered at the same meeting.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

- 7.1 The Site is:
- (a) vacant, covered with weeds and with some site formation works in progress; and
 - (b) accessible to Kong Po Road.

- 7.2 The surrounding areas are rural in character intermixed with residential structures/ dwellings, vacant land and grass land:
- (a) to its north and east are vacant land, an open storage yard, grass land and a few residential structures/ dwellings (the nearest about 90m to its northwest) and the site approved for temporary hobby farm (under Application No. A/YL-KTN/746);
 - (b) to its immediate south are Kong Po Road and Kam Tin River. To its further south is a residential development named Seasons Monarch (四季名園); and
 - (c) to its west is vacant land and a site with works in progress, which is also the site approved for temporary animal boarding establishment (under Application No. A/YL-KTN/779).

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises an Old Scheduled 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s)

will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kong Po Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) According to the applicant, the animal boarding service will open 24 hours daily, including Sunday and public holiday. Not more than 20 dogs will be kept at the Site. 3 private car parking spaces and 1 car parking space for light good vehicle will be provided at the Site. The kennels are enclosed with soundproofing materials and equipped with mechanical ventilation and air conditioning system and no public announcement system and whistle blowing is allowed at the Site.
- (c) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions:
 - (i) the dogs shall be kept inside the kennel between 7:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period; and

- (ii) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site as proposed by the applicant.
- (d) The applicant is advised that the proposed structures for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hours mechanical ventilation and air-condition system.
- (e) The applicant is also advised to follow the requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”. Adequate supporting infrastructure / facilities for proper collection, treatment and disposal of waste / wastewater generated from the proposed use shall be provided. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including completion of percolation test and certification by Authorized Person. It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

Landscape

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo of 2021, the Site is located in an area of rural inland plains, landscape character comprises temporary structures, scattered tree groups, vacant land, farmlands and village houses at the south. With reference to her site photos taken in November 2021, the Site is vacant and site formation works is in progress. No significant tree/vegetation is observed within the Site. It is considered that significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
- (c) A planning application (No. A/YL-KTN/779) at the west of the Site within the same “AGR” zone for the same temporary development was approved by the Board in August 2021. The proposed development under application is considered not entirely incompatible with its surrounding environment.

Agriculture and Nature Conservation

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

- (a) The Site falls within the “AGR” zone and is currently abandoned. 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. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural perspective.
- (b) Nevertheless, he has no comment from the conservation and animal boarding establishment licence aspects. The Site does not associate with any licences granted by his department, nor has he received any application regarding the Site. Under the Public Health (Animals) (Boarding Establishment) Regulations, Cap. 139I, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department. Besides, the dogs kept by the applicant should be properly licensed in accordance with Cap. 421 Rabies Ordinance and the applicant is reminded to observe Cap. 169 Prevention of Cruelty to Animal Ordinance at all times. He will provide detailed information and guidance on Animal Boarding Establishment when the applicant submits the licence application.

Drainage

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

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal and the implementation and maintenance of the revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix V**.

Fire Safety

9.1.8 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) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be

drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.9 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, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

Environmental Hygiene

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No food and environmental department's facilities will be affected.
- (b) If the proposal involves any commercial/ trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Any animal carcass/ parts shall be properly wrapped or bagged before disposal and in accordance with the relevant legislation. Also, for any waste generated from the activities in the premises, the applicant should handle on their own/ at their expenses.
- (c) Proper licence/permit issued by the Food and Environmental Hygiene Department is required if there is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.

District Officer's Comments

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

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

9.2 The following government departments have no objection to / no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/ Construction, Water Supplies Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 19.11.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from Kadoorie Farm and Botanic Garden Corporation was received (**Appendix IV**). The commenter objects to the application mainly on the grounds that approval of the application, which involves filling of land, would cause direct, permanent and irreversible impacts on the “AGR” zone.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary animal boarding establishment and ancillary facilities for a period of 5 years in the “AGR” zone and filling of land for the whole site by 0.1m in depth. The planning intention of the “AGR” zone 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. The proposed use is not entirely in line with the planning intention of the “AGR” zone, and DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. However, approval of the application on temporary basis would not jeopardize the long-term planning intention of the “AGR” zone. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.

11.2 The proposed development is considered not incompatible with the surrounding areas, which are rural in character intermixed with residential structures/ dwellings, cultivated/ fallow agricultural land, vacant land and grassland. Although there are residential dwellings/ structures in the vicinity of the Site (the nearest about 90m to its northwest) (**Plan A-2**), the applicant advises that no public announcement system and whistle blowing will be used at the Site. All

dogs will be kept inside the enclosed structures which are equipped with soundproofing materials, mechanical ventilation and air conditioning after operation hours. DEP has no adverse comment on the application.

- 11.3 Other relevant departments consulted, including C for T, CTP/UD&L of PlanD and D of FS, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours, outdoor animal activities, and prohibiting the use of public announcement system and whistle blowing are recommended in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) recommended in paragraph 12.2 below.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/725) for the same temporary use submitted by the same applicant which was approved by the Committee in 2021. 17 similar applications on 14 sites within the same “AGR” zone were approved by the Committee between 2015 and 2021 as stated in paragraph 6.3 above. The circumstances of the only rejected application (No. A/YL-KTN/156) in 2002 are different from the current application in that the applicant failed to address the concerns of relevant government departments on the environmental and drainage aspects. The approval of the current application is in line with the Committee’s previous decisions.
- 11.5 One public comments objecting to the application was received during the statutory publication period as detailed in paragraph 10 above. The commenter raises concern that approval of the application would result in direct and permanent impacts on the “AGR” zone as it involves filling of land. In this regard, it should be noted that the applicant would be required to reinstate the Site to an amenity area upon expiry of the temporary planning permission should the application be approved. The departmental comments and planning considerations and assessments as stated above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment with ancillary facilities for a period of 5 years and filling of land.
- 12.2 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 5 years until 24.12.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. (except overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) all animals shall be kept inside the enclosed structures on the Site after the operation hours, as proposed by the applicant, during the planning approval period;
- (c) no public announcement system, portable loud speaker, any form of audio amplification system or whistle blowing is allowed to be used 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 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 24.6.2022;
- (f) in relation to (e) 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 24.9.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 24.6.2022;
- (i) in relation to (h) 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 24.9.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h), or (i) 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
- (l) upon the 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**.

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

the proposed development 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. It 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.

13. Decision Sought

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

14. Attachments

Appendix I	Application Form with Supplementary Information and Plans received on 9.11.2021
Appendix Ia	FIs received on 16.12.2021, 20.12.2021 and 21.12.2021
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications within the Same “AGR” Zone in the vicinity of the Site on the Kam Tin North OZP
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Advisory Clauses
Drawing A-1	Site Layout 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
DECEMBER 2021**