

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/807**

<b><u>Applicant</u></b>	: Mr. WONG Yuen Sang represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 961 RP (Part), 962 RP (Part), 963 RP (Part) and 967 RP (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 1,098m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Animal Boarding Establishment 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 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 planning permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is partly covered with weeds and partly covered with gravels (**Plans A-2 and A-4**).
- 1.2 The proposed development involves the erection of two two-storeys structures with building height of about 6.3m and a total floor area of about 218m<sup>2</sup> for animal boarding establishment, ancillary office and staircase (canopy) uses. Part of the Site (742m<sup>2</sup> / about 67.6%) is proposed to be filled with concrete by not more than 0.2m in depth (from 6.8mPD - 7.9mPD to 6.9mPD - 8.1 mPD and from 7.9mPD to 8.1mPD) for site formation of structures and circulation space. The operation hours are between 9:00a.m. and 7:00p.m. daily, including public holidays (except for the overnight animal boarding services). According to the applicant, a maximum of 30 dogs will be accommodated at the Site. All dogs will be kept in cages and placed inside the enclosed animal establishment outside the operation hours. The structure will be enclosed with soundproofing materials and equipped with mechanical ventilation and air-conditioning system. No public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system will be used on the Site. The applicant states that eight staff will be working at the Site

while two of them will stay at the Site overnight to handle potential complaints arising from the proposed development. Five private car parking spaces and one loading / unloading space for light goods vehicle will be provided at the Site. The Site is accessible from Castle Peak Road – Tam Mei via Shui Mei Road and a local access. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form, supplementary information and plans received on 30.11.2021 **(Appendix I)**
- (b) Further Information (FI) received on 19.1.2022 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 and Ia**, and are briefly summarized as follows:

- (a) The proposed use is on a temporary basis which will not jeopardize the long-term planning intention of the “AGR” zone. The Site will be reinstated to a condition suitable for agricultural use after the planning approval period.
- (b) The area proposed to be filled and the number of structures are kept to minimal for the operation of the proposed development.
- (c) The proposed development would not generate adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department for relevant mitigation measures and requirements.
- (e) The applicant will submit an application for Boarding Establishment License in accordance with the Public Health (Animals) (Boarding Establishment) Regulations to the Agriculture, Fisheries and Conservation Department after obtaining the planning approval.

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

~~The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.~~ ***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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Kam Tin 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 not involved in any previous application.

#### 6. **Similar Applications**

- 6.1 There are 22 similar applications for temporary animal boarding establishment with/without filling of land, involving ~~20~~ **19** sites, within the same “AGR” zone in the vicinity of the Site. Except Application No. A/YL-KTN/759, which was rejected by the Committee in 2021, all applications were approved with conditions by the Committee between 2017 and 2021. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

##### *21 Approved Applications*

- 6.2 21 applications involving ~~20~~ **18** sites were approved with conditions by the Committee between August 2017 and September 2021 for similar reasons that temporary approvals would not frustrate the long-term planning intention; 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 relevant government departments generally had no adverse comments on the applications. However, planning permissions for 5 applications were revoked due to non-compliance with approval conditions.

##### *One Rejected Application*

- 6.3 Application No. A/YL-KTN/759 was rejected by the Committee in May 2021 for the reason that the site was fragmented in that the boundary had enclosed existing structures which were used for the applied use without planning permission but outside the application site and approving the application would result in piecemeal development and was undesirable from land-use planning and planning control point of view. Nevertheless, the same site for the same use was later approved by the Committee in September 2021 when all the existing structures previously left out in the fragmented application were included in one application site under application No. A/YL-KTN/781.
- 6.4 Apart from the above similar applications which have been considered by the Committee, Application No. A/YL-KTN/811 for temporary animal boarding establishment for 3 years and filling of land within the same “AGR” zone in the vicinity of the Site (**Plan A-1**) 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) partly covered with weeds and partly covered with gravels; and
  - (b) accessible from Castle Peak Road – Tam Mei via Shui Mei Road and Mei Fung Road.
- 7.2 The surrounding area is rural in character intermixed by residential structures/dwellings, hobby farms, cultivated/fallow agricultural land, parking of vehicles, plant nursery and vacant land:
- (a) to its north are hobby farms, fallow agricultural land, residential structures/dwellings and vacant land;
  - (b) to its west and northwest are residential structures/dwellings (the nearest about 10m to the west) and cultivated/fallow agricultural land; and
  - (c) to its east and northeast across Mei Fung Road are three sites with valid planning permissions (No. A/YL-KTN/665, 705 and 772) for hobby farm and parking of vehicles respectively, a few residential structures/dwellings and fallow agricultural land. To its further east and southeast are cultivated/fallow agricultural land, vacant land and a plant nursery.

## **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 Department**

- 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 Old Schedule Agricultural Lots 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) A Letter of Approval (L of A) (MT/LM15782) was given for erection of single-storey structures on Lot 963 RP in D.D. 107 for

agricultural purpose and the structure shall not be used for other purposes such as livestock keeping, domestic, commercial godown or industrial purposes.

- (c) Should planning approval be given to the application, the lots owners shall apply to his office to permit the structures 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 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) 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. Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.

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

- (a) Mei Fung Road is not maintained by her office.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Tam Mi.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to 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) Provided that the animal boarding 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) all dogs will be kept inside the enclosed structure on the site from 6:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
  - (ii) all dogs shall wear dog masks during outdoor activities, as proposed by the applicant, during the planning approval period; and
  - (ii) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site, during the planning approval period;
- (c) Moreover, the applicant is also advised (i) that the proposed structure for animal boarding establishment should be enclosed with soundproofing materials with provision of 24-hour mechanical ventilation and air-conditioning system; (ii) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (iii) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. If septic tank and soakaway system will be used in the 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 percolation test; and (iv) that 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 the landscape planning perspective.
- (b) Based on the aerial photo of January 2021, the Site is located in an area of rural landscape character comprising of village houses, temporary structures, vegetation and farmlands. The Site is vacant and covered by wild grass. No existing tree is observed within the Site. Significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
- (c) Considering that similar applications for animal boarding establishment within the same “AGR” zone across Mei Fung Road were approved, the proposed development under this application is

considered not entirely incompatible with the 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 sources are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application for the proposed use is not supported from agricultural point of view.
- (b) Nevertheless, he has no comment on the application from the nature conservation and animal establishment boarding licensing aspects. The Site does not associate with any licence granted by his department, nor has he received any application regarding the address. 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 he is reminded to observe Cap. 169 Prevention of Cruelty to Animals 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 drainage proposal, and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

### **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 is 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 Site, prior approval and consent of the Building 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 IV**.
- (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) Proper licence / permit issued by his 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.
- (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.



**District Officer's Comments**

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

She has not received any comment from the locals and has no comment on the application.

- 9.2 The following government departments have no comment on / no objection to 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 the Statutory Publication Period**

On 7.12.2021, the application was published for public inspection. During the three-week statutory publication period, five public comments from Kadoorie Farm & Botanic Garden Corporation, and individuals were received (**Appendices III-1 to III-5**). The commenters object to the application mainly on the grounds that the proposed development would generate adverse noise, hygiene and water pollution impacts to the surrounding areas; the proposed development is not in line with the planning intention of the "AGR" zone; and the proposed development (including filling of land) would cause permanent and irreversible impact on the "AGR" zone.

**11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary animal boarding establishment for a period of 5 years and filling of land at part of the Site (742m<sup>2</sup>/ about 67.6%) by not more than 0.2m in depth at the "AGR" zone. 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. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, taking into account the nature and scale of the proposed development, approval of the application on a 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 use is considered not incompatible with the surrounding area which is rural in character intermixed by residential structures/dwellings, hobby farms,

cultivated/fallow agricultural land, storage/open storage yards, parking of vehicles and vacant land. The nearest residential dwellings/structures is about 10m to the west of the Site (**Plan A-2**). Nevertheless, the applicant states that all the animals will be kept in cages and inside the enclosed structure outside the operation hours, which will be equipped with soundproofing materials and mechanical ventilation and air conditioning. No public announcement system, whistle blowing, portable loud speaker, or any form of audio amplification system will be used at the Site. DEP has no objection to the application.

- 11.3 Relevant departments consulted including C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 The Site is not involved in any previous application. There are 21 similar applications for temporary animal boarding establishment (with/without land filling) approved within the same "AGR" zone in the vicinity of the Site between 2017 and 2021 for reasons as stated in paragraph 6.2 above. The circumstances of the only rejected similar application (No. A/YL-KTN/759) are different from the current application as stated in paragraph 6.3 above. Approval of the current application is in line with the Committee's previous decisions.
- 11.5 Five public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. The commenters raise, among others, concern that approval of the application, which involves filling of land, would result in direct and permanent impacts on the "AGR" zone. 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. As regards the other public comments, the departmental comments and planning consideration and assessments as stated above are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment 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 28.1.2027. 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. (except overnight animal boarding services) after the operation hours, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all dogs will be kept inside the enclosed structure on the site from 6:00 p.m. to 9:00 a.m., as proposed by the applicant, during the planning approval period;
- (c) all dogs shall wear dog masks during outdoor activities, as proposed by the applicant, during the planning approval period;
- (d) no public announcement system, portable loudspeaker, 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;
- (e) 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 28.7.2022;
- (f) in relation to (e) 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 28.10.2022;
- (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 28.7.2022;
- (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 28.10.2022;
- (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 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 IV**.

- 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 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. There is no strong planning justification 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**

<b>Appendix I</b>	Application Form with Supplementary Information and Plans received on 30.11.2021
<b>Appendix Ia</b>	FI received on 19.1.2022
<b>Appendix II</b>	Similar Applications within the Same "AGR" Zone in the Vicinity of the Site on the Kam Tin North OZP
<b>Appendices III-1 to III-5</b>	Public Comments Received during the Statutory Publication Period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan

**Plan A-3**            Aerial Photo

**Plan A-4**            Site Photos

**PLANNING DEPARTMENT  
JANUARY 2022**