

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-KTN/925 & 928

<u>Applicants</u>	:	Mr. TANG Wing Yat Tommy (Application No. A/YL-KTN/925) Mr. TANG Lok San (Application No. A/YL-KTN/928)
<u>Sites</u>	:	Lots 1356 (Part), 1373 (Part) and 1374 (Part) (Application No. A/YL-KTN/925) Lots 1356 (Part), 1373 (Part), 1374 (Part) and 1375 (Part) (Application No. A/YL-KTN/928) in D.D. 109, Kam Tin, Yuen Long, New Territories
<u>Site Areas</u>	:	About 1,121.4m ² (Application No. A/YL-KTN/925) About 1,047.1m ² (Application No. A/YL-KTN/928)
<u>Leases</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Applications</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of 3 Years and Filling of Land

1. The Proposals

- 1.1 The applicants seek planning permissions for proposed warehouse (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land at the application sites (the Sites) which are located adjacent to each other and falling within an area zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the Notes of the OZP, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 2 use under the “AGR” zone which requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires permission from the Board. The Sites are mainly vacant, partly fenced and paved, and a temporary structure is erected within the site of application No. A/YL-KTN/928 (**Plans A-2 to A-4b**).

1.2 Major development parameters of the two applications are summarised as follows:

	A/YL-KTN/925	A/YL-KTN/928
Site Area	About 1,121.4m ²	About 1,047.1m ²
No. of Structures	2	1
No. of Storey	1	1
Building Height	Not more than 8m	Not more than 8m
Total Floor Area	About 420m ²	About 210m ²
Use of the Structures	warehouse and ancillary office	warehouse and ancillary office
No. of Private Car Parking Spaces	2	1
No. of Loading/ Unloading Space for Light Goods Vehicles	2	2
Extent of Land Filling	Whole site to be filled with concrete by not more than 0.3m in depth (from +6.9mPD to +7.2mPD)	Whole site to be filled with concrete by not more than 0.3m in depth (from +6.9mPD to +7.2mPD)

1.3 According to the applicants, the proposed temporary warehouses are for storage of construction tools and repair parts. The proposed operation hours will be from 9:00 a.m. to 7:00 p.m. from Mondays and Saturdays with no operations on Sunday and public holidays. No workshop or open storage activities will be carried out at the Sites. The Sites are accessible from Kong Po Road via a local access (**Plans A-1 and A-2**). The site layout plans and paving plans submitted by the applicants are at **Drawings A-1 to A-4**.

1.4 In support of the applications, the applicants have submitted the following documents:

- (a) Application form (No. A/YL-KTN/925) with (Appendix Ia) supplementary information received on 12.6.2023
- (b) Application form (No. A/YL-KTN/928) with (Appendix Ib) supplementary information received on 12.6.2023
- (c) Further Information (FI) for Application No. A/YL-KTN/925 received on 4.8.2023* (Appendix Ic)
- (d) FI for Application No. A/YL-KTN/928 received on 4.8.2023* (Appendix Id)

** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicants

The justifications put forth by the applicants in support of their applications are detailed in the application forms, supplementary information and FIs at **Appendices Ia to Id**. They can be summarised as follows:

- (a) The proposed developments are temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. Similar applications for temporary

warehouse have been approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Sites.

- (b) The proposed developments are not incompatible with the surrounding environment.
- (c) The land filling areas within the Sites are for site formation of structures and vehicular circulation space for meeting the operational need of the proposed warehouses. The applicants will reinstate the Sites to amenity areas upon expiry of the planning permissions.
- (d) The proposed developments will not induce adverse traffic, landscape and visual impacts to the surrounding areas. Medium or heavy goods vehicles exceeding 5.5 tonnes will not be allowed to park at or enter the Sites.

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

The applicants are not the “current land owner” of their respective lots but have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notices and sending notices to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Sites are 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.

5. Previous Application

There is no previous application at the Sites.

6. Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Sites in the past 5 years.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4b)

7.1 The Sites are:

- (a) mainly vacant, partly fenced and paved, and a temporary structure is erected within the site of application No. A/YL-KTN/928; and

- (b) accessible from Kong Po Road on the south via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to the north are residential structures/dwellings, vacant land and grassland; and
- (b) to the east, south and west are mainly open storage yards and vacant land. To the further south across Kong Po Road is Kam Tin River.

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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the applications. Their general comments on the applications and advisory comments in the Recommended Advisory Clauses are provided in **Appendices II and III** respectively.

- 9.2 The following government department does not support the applications:

Agriculture and Nature Conservation

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

- (a) does not support the applications from agricultural perspective as the Sites possess potential for agricultural rehabilitation;
- (b) the Sites zoned “AGR” are vacant. The agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.; and
- (c) no comment on the applications from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

The applications were published for public inspection. During the statutory publication period, two public comments from Kadoorie Farm & Botanic Garden Corporation and an individual were received on both applications (**Appendix IVa** and **Ib**). For both applications, the commenters object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; and that the Sites will be paved.

11. Planning Considerations and Assessments

- 11.1 The two applications are for proposed warehouses (excluding dangerous goods godown) with ancillary facilities for a period of 3 years and filling of land at the Sites zoned “AGR” (**Plan A-1**). 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. Whilst the proposed developments are not in line with the planning intention of “AGR” zone and DAFC does not support the applications from agricultural perspective, taking into account the planning assessments below, the proposed developments on a temporary basis of 3 years could be tolerated. 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 applications from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Sites to an amenity area is recommended should the Committee decide to approve the applications.
- 11.2 The proposed developments are considered not incompatible with the surrounding uses which are rural in character predominated by residential structures/dwellings, open storage yards, vacant sites and grassland. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse impact on the landscape resources and character arising from the proposed uses is not anticipated and has no objection to the applications from landscape planning perspective.
- 11.3 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 comment on the applications. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicants 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 the Environmental Protection Department (EPD) to minimise any possible environmental nuisance.
- 11.4 Regarding the public comments received during the statutory publication period objecting to the applications as stated in paragraph 10 above, the departmental comments and planning assessments 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, the Planning Department considers that the proposed developments could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis for a period of 3 years until 11.8.2026. 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., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no recycling, cleansing, repairing, dismantling work nor other workshop activities, as proposed by the applicant, is allowed on the site at any time during the planning approval period;
- (d) 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 11.2.2024;
- (e) in relation to (d) 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 11.5.2024;
- (f) in relation to (e) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (g) 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 11.2.2024;
- (h) in relation to (g) 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 11.5.2024;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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
- (k) upon expiry of the planning permission, the reinstatement of the site to an

amenity area, as proposed by the applicant, to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

14. Attachments

Appendix Ia	Application form (No. A/YL-KTN/925) with supplementary information received on 12.6.2023
Appendix Ib	Application form (No. A/YL-KTN/928) with supplementary information received on 12.6.2023
Appendix Ic	FI for Application No. A/YL-KTN/925 received on 4.8.2023
Appendix Id	FI for Application No. A/YL-KTN/928 received on 4.8.2023
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IVa	Public comments for Application No. A/YL-KTN/925
Appendix IVb	Public comments for Application No. A/YL-KTN/928
Drawings A-1 & A-2	Site layout plan and paving plan for Application No. A/YL-KTN/925
Drawings A-3 & A-4	Site layout plan and paving plan for Application No. A/YL-KTN/928
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo

Plans A-4a to A-4b Site photos

**PLANNING DEPARTMENT
AUGUST 2023**