

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/879

<u>Applicant</u>	: 明日景象有限公司 represented by Miss Lo Lai Wah
<u>Site</u>	: Lots 355 RP (Part), 356 RP, 356 S.B (Part), 359 RP, 360 RP (Part), 361, 362 (Part), 363 and 364 (Part) in D.D. 103 and Adjoining Government Land, Kam Tin Road, Kam Tin, Yuen Long
<u>Site Area</u>	: About 3,554.9m ² (including about 375m ² of Government land (10.5%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Open Storage of Vehicles, Construction Materials/Prefabrication Components and Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of vehicles, construction materials/prefabrication components and site office for a period of 3 years. The Site is zoned “AGR” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is involved in ten previous applications for various temporary open storage, vehicle repair workshop and hardware recycling centre uses. Eight applications for open storage or vehicle repair workshop uses were approved with conditions by the Rural and New Town Planning Committee (the Committee) from 1997 to 2017. The last application (No. A/YL-KTS/743) for temporary vehicle repair workshop submitted by a different applicant was

approved by the Committee in 2017. However, the planning permission was revoked in 2020 due to non-compliance with approval conditions.

- 1.3 According to the applicant, the development involves 1 one-storey (not more than 4.5m high) structure with floor area of about 31.5m² for office use, while the remaining area of the Site will mainly be used for open storage of vehicles, construction materials/prefabrication components (about 2,200m²) and manoeuvring space of vehicles. Three parking spaces for private cars, two parking spaces (as well as storage spaces) for heavy goods vehicles and one loading/unloading spaces for heavy goods vehicles are provided. The operation hours are from 8:00 a.m. to 6:00 p.m. Mondays to Saturdays, and there is no operation on Sundays and public holidays. The Site is accessible to Kam Tin Road via a local track. The layout plan of the Site submitted by the applicant is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 9.2.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 7.6.2021 in response to departmental comments **(Appendix Ia)**
[exempted from publication requirement]
 - (c) FI received on 7.7.2021 in response to departmental comments **(Appendix Ib)**
[exempted from publication requirement]
 - (d) FI received on 14.7.2021 in response to departmental comments **(Appendix Ic)**
[exempted from publication requirement]
- 1.5 On 26.3.2021, the Committee agreed to defer a decision on the application for a period of two months, as requested by the applicant. On 7.6.2021, 7.7.2021 and 14.7.2021, FIs have been received and the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs in **Appendices I to Ic**. They can be summarized as follows:

- (a) The applicant would like to better utilize the land resources for providing an additional choice for storage use in the market. The Site will be used for temporary storage of prefabrication components, bamboo scaffold, steel brackets, etc.
- (b) No workshop, dismantling, or repairing activities will be carried out within the Site.

- (c) The development would not cause adverse drainage and traffic impact on the surrounding area.

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

The applicant is not a “current land owner” of the private land portion 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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notices to Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 is relevant to the application. The Site falls within the Category 2 areas under the TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be taken.

6. **Previous Applications**

- 6.1 The Site is the subject of ten previous applications for various temporary open storage, vehicle repair workshop and hardware recycling centre uses. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

8 Approved applications

- 6.2 Applications No. A/YL-KTS/65 and 148 for temporary open storage of vehicles and/or construction materials were approved with conditions by the Committee in 1997 and 1999 for 12 months for the reasons that the proposed uses were not incompatible with the surrounding land uses; relevant departments had no objection; public concerns could be addressed by appropriate approval condition; and the applications would be an interim arrangement to alleviate the acute shortage of open storage land in the area.
- 6.3 Applications No. A/YL-KTS/198, 293, 404, 509, 605 and 743 for temporary vehicle repair workshop were approved with conditions by the Committee for 3 years between 2000 and 2017 for similar reasons as mentioned above. However, the planning permissions of the last four applications were

revoked due to non-compliance with the approval conditions. The planning permission of the last application No. A/YL-KTS/743 submitted by a different applicant was revoked in 2020 due to non-compliance with approval conditions on provision of drainage facilities and fire service installations.

2 Rejected applications

- 6.4 Application No. A/YL-KTS/667 for temporary hardware recycling centre and open storage of scrap metal, concrete and machinery with ancillary office, and Application No. A/YL-KTS/685 for temporary open storage (concrete from demolished buildings) both covering a larger site area (5,567.1m²/5,641.3m²) were rejected by the Committee in 2015 and 2016 respectively on similar considerations that the developments were not in line with the planning intention of the “AGR” zone; the applications did not comply with the then TPB PG-No. 13E in that the developments were not compatible with the surrounding land uses, the residential dwellings/structures would be susceptible to adverse environmental nuisance generated by the developments, and adverse comments from the relevant government departments and local objections were received; and the applicants failed to demonstrate that the developments would not generate adverse environmental and drainage impacts on the surrounding areas.

7. Similar Applications

- 7.1 There are 17 similar applications for various temporary open storage uses within the same “AGR” zone on the OZP since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

16 Approved applications

- 7.2 Sixteen applications for various temporary open storage of vehicles/vehicle parts, machinery and/or trailers / tractors park (with/without ancillary workshop/site office) were approved with conditions by the Committee between 2009 and 2019 mainly for the reasons that the developments on a temporary basis would not frustrate the long-term planning intention; they were not incompatible with the surrounding areas; and generally in line with the then TPB PG-No. 13E in that there was no adverse departmental comment except DEP, and DEP’s concern could be addressed by approval conditions, or planning approvals for open storage uses had previously been granted. However, the planning approval for five applications (No. A/YL-KTS/457, 458, 600, 628 and 699) were revoked due to non-compliance with approval conditions.

1 Rejected application

- 7.3 The remaining application (No. A/YL-KTS/624) for proposed temporary filling of pond and filling of land for temporary open storage of recycled vehicles and metal scaffolding/machinery for construction was rejected by the

Board on review in 2014 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the development did not comply with the then TPB PG-No. 13E in that it was incompatible with the surrounding land uses and there were adverse comments from relevant Government departments; the applicant failed to demonstrate the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications.

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

8.1 The Site is:

- (a) paved, fenced, and used for the applied use without planning permission; and
- (b) accessible via a local track from Kam Tin Road.

8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, site offices, parking of vehicles, vehicle repair workshop, residential structures/dwellings, warehouses and unused land:

- (a) to its east and further east across a local track are parking of vehicles, site offices, vehicle repair workshop and unused land;
- (b) to its south and west are residential structures/dwellings (the closest one is about 20 m from the Site), warehouses, open storage yards, graves, cultivated/fallow agricultural land and unused land; and
- (c) to its north are unused land and Tsing Long Highway.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Government Land (GL) and Old Scheduled 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) No permission is given for occupation of GL (about 375m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) 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. Furthermore, the applicant has to exclude the GL portion from the Site or apply to his office for a Short Term Tenancy to occupy the GL. 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

10.1.2 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.
- (c) 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.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning at the Site received in the past three years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as there are sensitive receivers, i.e. residential dwellings/structures in the vicinity of the Site (the nearest about 20m on the south), and the development involves the use of heavy vehicles, thus environmental nuisance is expected.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) Based on the aerial photo taken in 2020, the Site is situated in an area of miscellaneous rural fringe landscape character with temporary structures and vacant land to the west of the Site, scattered tree groups and ponds to the north and east of the Site respectively. The development is considered not incompatible with the surrounding landscape setting.
- (b) According to the site record dated 1.3.2021, the Site is fenced off, paved with temporary structures and storage of construction materials. 32 nos. of newly planted trees *Lagerstroemia speciosa* (大花紫薇) from fair to poor condition under previous approved planning application (No. A/YL-KTS/743) and 9 nos. of existing trees including *Ficus microcarpa* (細葉榕) and *Macaranga tanarius* (血桐) in poor condition are found along the boundaries of the Site. In view of the planted trees are common species i.e. *Lagerstroemia speciosa* (大花紫薇) and no significant change to the surrounding landscape setting is observed since the last approved planning application (No. A/YL-KTS/743), he has no objection to the application from the landscape planning perspective.

- (c) It is recommended to impose a condition to maintain all existing trees within the Site in good condition at all times during the planning approval period should the application be approved by the Board.

Drainage

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

- (a) He has no objection in principle to the application from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal and 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 permission.
- (c) His detailed comments on the submitted drainage proposal is at **Appendix VII**.

Agriculture and Nature Conservation

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

- (a) The Site falls within “AGR” zone and is currently a paved open storage. 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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) The Site is primarily disturbed in nature, he has no comment on the application from nature conservation point of view.

Fire Safety

10.1.8 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 plan should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (c) Moreover, having considered the nature of the open storage, an approval condition on provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS251) to his department for approval.
- (d) 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

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix VII**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

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

10.2 The following Government departments have no comment on the application:

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

11. Public Comment Received During Statutory Publication Period

On 19.2.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix VI**) was received objecting to the application on the grounds that open storage use will increase the traffic flow and lead to traffic congestion, environmental pollution, increase fire hazard risk and affect the safety and living quality of the villagers.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of vehicles, construction materials/prefabrication components and site office in “AGR” zone. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is considered that temporary approval of the application would not frustrate the long-term planning intention of the “AGR” zone.

12.2 The development is not incompatible with the surrounding areas which are rural in character intermixed with open storage/storage yards, warehouses, site offices, workshops, some residential structures/dwellings and unused land.

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. 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 3 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 uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is generally in line with the TPB PG-No. 13F in that apart from DAFC and DEP, there are no adverse departmental comments on the application. DEP does not support the application as there are sensitive receivers, i.e. residential dwellings/structures in the vicinity of the Site (the nearest about 20m on the south) and the development involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, the vehicular access to the Site does not need to pass through residential dwellings/structures. To address DEP's concern and to minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting workshop-related activities are recommended in paragraphs 13.2 (a) to (c) below. Besides, the applicant will be advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses". The technical requirements of C for T, CE/MN of DSD, D of FS and CTP/UD&L of PlanD can be addressed by approval conditions in paragraphs 13.2 (d) to (k) below.
- 12.5 The Site is involved in ten previous applications for various temporary open storage, vehicle repair workshop and hardware recycling centre uses. Eight applications for temporary open storage of vehicles and construction materials and materials and vehicle repair workshop uses were approved with conditions by the Committee from 2000 to 2017 mainly for the reasons as stated in paragraphs 6.2 and 6.3 above. Whilst the last approved application (No. A/YL-KTS/743) for proposed temporary vehicle repair workshop for a period of 3 years was revoked owing to non-compliance with approval conditions relating to provision of drainage facilities and fire service installations, it was submitted by a different applicant for a different use as compared with the current application. There are two applications for (No. A/YL-KTS/667 and 685) temporary hardware recycling centre and/or open storage for scrap metal, concrete and/or machinery rejected by the Committee in 2015 and 2016 respectively. Nevertheless, these two applications involved metal recycling centre and the use of heavy machinery for dismantling concrete blocks or the handling of demolished concrete. There are also 17 similar applications for various temporary open storage uses within the same "AGR" zone approved by the Committee between 2009 and 2019. The only rejected similar application was subject to different circumstances including that it did not comply with the then TPB PG-No. 13E.
- 12.6 One public comment was received during the statutory publication period objecting to the application mainly on the grounds as stated in paragraph 11 above. In this regard, the departmental comments as well as planning considerations and assessments as stated 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 mentioned in paragraph 11, the Planning Department considers that the temporary open storage of vehicles, construction materials/prefabrication components and site office could be tolerated for a period of 3 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 3 years until 23.7.2024. 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 8:00 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out 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) all the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (f) 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 23.1.2022;
- (g) in relation to (f) 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 23.4.2022;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 3.9.2021;
- (j) 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 23.1.2022;
- (k) in relation to (j) 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 23.4.2022;
- (l) if any of the above planning condition (a), (b), (c), (d), (e) or (h) 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;

- (m) if any of the above planning condition (f), (g), (i), (j) or (k) 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
- (n) 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 VII**.

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

the 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.

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 and Plans received on 9.2.2021
Appendix Ia	FI received on 7.6.2021
Appendix Ib	FI received on 7.7.2021
Appendix Ic	FI received on 14.7.2021

Appendix II	Relevant Extract of TPB PG-No. 13F
Appendix III	Previous s.16 Applications covering the Site
Appendix IV	Similar Applications within the Same “AGR” Zone on the Kam Tin South OZP
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendix VI	Public Comment received during the Statutory Publication period
Appendix VII	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2021**