

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/906

<u>Applicant</u>	: Mr. PANG Chun-yip represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 1811 S.A ss.1 RP, 1812 S.G ss.1 (Part), 1812 S.H RP (Part) and 1812 S.I RP in D.D. 106, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 470m ²
<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>	: Proposed Temporary Animal Boarding Establishment (Cattery) for a Period of 3 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 (cattery) for a period of 3 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 currently vacant and partly covered by weeds / vegetation (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves two 1-storey structures with a total floor area of about 132m² and building height not exceeding 4m for cattery, site office and toilet. The operation hours are from 9:00a.m. to 7:00p.m. daily (including public holidays). Not more than 16 cats will be accommodated at the Site. All cats will be kept within enclosed structures with soundproofing materials and provided with mechanical ventilation and air-conditioning system, and will leave the Site after the operation hours. No public announcement system and whistle blowing will be used at the Site. The filling of land (of about 338m² or 71.9%) at the Site with asphalt or concrete of about 0.2m in depth is for the maneuvering and parking of private cars, and three car parking spaces will be provided. The Site is accessible from Kam Sheung

Road via a local track and to Pat Heung Road via a local access and Yuen Tai Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary information and plans received on 14.9.2021 **(Appendix I)**
- (b) Further Information (FI) received on 4.11.2021 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 and Ia**. They can be briefly summarized as follows:

- (a) The proposed use is on a temporary basis and will not jeopardize the long-term planning intention of the “AGR” zone.
- (b) The proposed development is not incompatible with the surrounding environment. Similar applications were approved in the same “AGR” zone.
- (c) The cattery will be maintained in a sanitary condition, and there will be insignificant traffic, drainage and environmental impacts. Besides, no public announcement system nor whistle blowing will be used / carried out at the Site.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO will be obtained before commencing any discharge.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement 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 notice at the Site and sending notification letter to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active planning enforcement case.

5. **Previous Application**

The Site is not the subject of any previous application.

6. **Similar Applications**

- 6.1 There are 7 similar applications (No. A/YL-KTS/480, 532, 633, 780, 789, 807 and 877) involving 3 sites for temporary animal boarding establishment in the vicinity of the Site within the same “AGR” zone. All applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2009 and 2021 mainly on similar grounds that temporary approval would not jeopardize the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; and relevant departments in general had no adverse comments or their concerns could be addressed by approval conditions. However, the planning approvals for applications No. A/YL-KTS/480, 780 and 789 were revoked due to non-compliance with approval conditions.
- 6.2 Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) currently vacant and fenced mostly with a brick wall while its northern boundary is bounded by chain link fence;
 - (b) partly covered by weeds / vegetation; and
 - (c) accessible from Kam Sheung Road via a local track.
- 7.2 The surrounding areas are rural in character predominated by fallow agricultural land, plant nursery, gardening, open storage / storage yard, parking of vehicles, residential structures / dwellings and vacant land:
- (a) to its north, south, east and west in the “AGR” zone are fallow agricultural land, plant nursery, gardening, parking of vehicles, open storage / storage yard, residential structures / dwellings (closest 5m to the north), a site with works in progress and vacant land; and
 - (b) to its further west in the adjacent “Village Type Development” (“V”) zone of Yuen Kong San Tsuen are residential structures / dwellings.

8. 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.

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 of 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) Should planning approval be given to the planning application, the lot owners will need to 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 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.
- (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.

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 Kam Sheung Road.
- (b) 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) She has no objection to the application subject to the following approval conditions:
 - (i) all cats will be kept inside enclosed structures, 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 at any time 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-hours 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 case of unavailability of public sewer, its design and construction shall follow the requirements of the Environmental Protection Department’s (EPD) Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environment Protection Department (EPD)” 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) According to the aerial photo of 2021, the Site is located in an area of rural inland plains landscape character surrounded by farmlands, village houses and clusters of trees. The application involves erection of two not more than 1-storey structures within the Site for cattery, site office and toilet uses. The proposed development is considered not entirely incompatible with its surrounding environment.
- (c) With reference to site photos taken on 20.9.2021, the Site is vacant and mostly covered by weeds / vegetation. No significant sensitive landscape resource is observed within the Site, hence significant adverse landscape impact arising from the proposed development is not anticipated.

Agriculture and Nature Conservation

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

- (a) The Site falls within “AGR” zone and is currently abandoned. Agricultural activities are active in the vicinity, and agricultural infrastructures such as footpath 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 for the proposed use and land filling is not supported from agricultural point of view.
- (b) Nevertheless, he has no comment from nature conservation and animal establishment boarding 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. 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, implementation and maintenance of a revised 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.
- (c) His detailed comments on the submitted drainage proposal are in **Appendix IV**.

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 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 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 any 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):

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

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

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

10. Public Comment Received During the Statutory Publication Period

On 21.9.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual was received (**Appendix III**). The commenter objects to the application mainly on the grounds that

there are agricultural activities in the area, and areas zoned “AGR” not incorporated into the Northern Metropolis development should continue to be used for food production; and there are many reports indicating that this type of facilities are used for breeding and exploiting animals.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary animal boarding establishment (cattery) for a period of 3 years at the “AGR” zone and filling of land (about 338m² or 71.9%) by about 0.2m in depth for manoeuvring and parking of vehicles. 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, approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the “AGR” zone. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, both 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 areas which are rural in character predominated by fallow agricultural land, plant nursery, gardening, residential structures / dwellings and vacant land. Although there are residential dwellings/structures in the vicinity of the Site (the nearest is about 5m to its north) (**Plan A-2**), the applicant states that no cat will stay at the Site after the operation hours, and all cats will be kept within enclosed structures with soundproofing material and mechanical ventilation and air conditioning system. In addition, no public announcement system and whistle blowing will be used. DEP has no objection to the application.
- 11.3 Other relevant departments consulted, including C for T, CE/MN of DSD, DAFC (from nature conservation and animal establishment boarding licence aspects), 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 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 not the subject of any previous application. There are 7 similar applications within the same “AGR” zone in the vicinity of the Site, all of which were approved by the Committee between 2009 and 2021 as stated in paragraph 6 above. Approval of this application is in line with the Committee’s previous decisions.

- 11.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary animal boarding establishment (cattery) for a period of 3 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 3 years until 12.11.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) all cats shall be kept inside enclosed structures, as proposed by the applicant, during the planning approval period;
- (c) no public announcement system, portable loudspeaker or any form of audio amplification system 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 12.5.2022;
- (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 12.8.2022;
- (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 12.5.2022;
- (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 12.8.2022;

- (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.

- 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.

Advisory Clauses

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

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 Plans and Supplementary Information received on 14.9.2021
Appendix Ia	FI received on 4.11.2021
Appendix II	Similar Applications within the Same “AGR” Zone in the vicinity of the Site
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	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
NOVEMBER 2021**