

RNTPC Paper No. A/YL-NTM/459B
For Consideration by the
Rural and New Town
Planning Committee
on 27.10.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/459

<u>Applicants</u>	: Leung Yat Shun and Chan Ying Yue May
<u>Site</u>	: Various Lots in D.D. 102 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 27,790m ² (including 1,720m ² (about 6.2%) of GL)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<u>Zoning</u>	: “Green Belt” (“GB”) (about 65.2%) and “Open Storage” (“OS”) (about 34.8%)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm), Shop and Services and Education Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm), shop and services and education centre for a period of three years. The Site falls within an area partly zoned “GB” (about 65.2%) and partly zoned “OS” (about 34.8%) on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1a**). According to the Notes of OZP, ‘place of recreation, sports or culture (hobby farm)’ and ‘education centre’ are Column 2 uses under the “GB” zone but neither Column 1 nor Column 2 uses under the “OS” zone; while ‘shop and services’ is a Column 2 use under the “OS” zone but neither Column 1 nor Column 2 uses under the “GB” zone. According to the covering Notes of the OZP, temporary use not exceeding a period of three years requires permission of the Town Planning Board (the Board). The Site is currently used for agricultural purpose and ponds with a few temporary structures at its eastern and northeastern portions (**Plans A-2, A-4a to A-4d**).

1.2 The proposed development involves seven structures of one storey (not more than 4m in height) with a total floor area of about 806m² for staff rest room, storage, workshop, toilet and kiosk for selling seasonal flowers and crops, drinks and souvenirs (about 25 m²), which are mainly located at the eastern and northeastern parts of the Site. There will be paddy fields and farming areas (about 15,586m² or 56.1% of the Site) including an open-air education centre for demonstration of farming techniques and provision of free education services, as well as ponds for planting of lotus and raising of ornamental fishes (about 3,297m² or 11.9% of the Site) (**Drawing A-1**). No parking space will be provided at the Site. The operation hours for the proposed development will be from 9:00a.m. to 7:00p.m. daily including public holidays. The applicants estimate that there will be 150 visitors and 6 staff members during weekdays and 300 visitors and 8 staff members during weekends. No public announcement system, loudspeaker, or any form of audio amplification system will be used at the Site. The ingress/egress is located at the northeastern part of the Site, which is accessible from Kwu Tung Road via a local road (**Plan A-1**). Besides, the Site surrounds a land parcel which is not included in the current application, and the applicants propose to open up an access road within the Site for public use for connection to the land parcel (**Drawing A-2**). The site layout plan submitted by the applicants is at **Drawing A-1**.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 22.3.2023 (**Appendix I**)
- (b) Further Information (FI) received on 28.6.2023* (**Appendix Ia**)
- (c) FI received on 28.8.2023* (**Appendix Ib**)

*Remarks: * accepted and exempted from publication and recounting requirements.*

1.4 On 19.5.2023 and 25.8.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicants' requests to defer making a decision on the application for a period of two months and one month respectively to allow more time for the applicants to prepare FI in support of the application. The application is scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the application form and FI at **Appendices I to Ib** respectively. They can be summarised as follows:

- (a) The applicants have been engaged in the agriculture industry since 1962 and the Site has been used for agricultural purpose for a long time. The application would not change the existing agricultural use but rather legitimise it for hobby farm and education centre purpose.
- (b) The proposed use is intended to foster sustainable hobby farming, encourage members of the public to participate in agricultural activities, and facilitate the cooperation with the charities. Meanwhile, it can also improve the environmental quality of the area nearby which can benefit the local community.
- (c) There will be no tree felling, land filling and pond filling within the Site. No adverse drainage, environmental and landscape impacts are anticipated.
- (d) The proposed development would not induce any traffic impact. Visitors are suggested to take public transport to the Site. Although the Site will not provide any car parking spaces, there are two large-scale public car parks in its vicinity to cater the needs of visitors.

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

The applicants are not the “current land owner” of the Site and has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/ Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and publishing notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. **Town Planning Board Guidelines**

Part of the Site (about 65.2%) falls within an area zoned “GB” on the OZP. The Town Planning Board Guidelines for Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to the application. The relevant assessment criteria are detailed at **Appendix II**.

5. **Background**

- 5.1 The Northern Metropolis (NM) Development Strategy released in 2021 put forward the proposal for San Tin Technopole. According to the Recommended Outline Development Plan for the San Tin Technopole (**Plan A-1b**) which was published for public engagement exercise in June 2023, the Site is included in the boundary of the San Tin Technopole designated for ‘Government, Institution or Community’, ‘Open Space’, ‘Public Housing’ uses and ‘Road’. According to the

estimated programme, site formation works would tentatively target to commence in Q4 2024.

5.2 The Site is currently not subject to active planning enforcement action.

6. Previous Application

There is no previous application covering the Site.

7. Similar Application

There is no similar application within the same “OS” and “GB” zones on the OZP in the past five years.

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

8.1 The Site is:

- (a) mainly used for agricultural use and ponds with a few temporary structures at its eastern part; and
- (b) accessible from Kwu Tung Road via a local access.

8.2 The surrounding areas have the following characteristics:

- (a) to the north are residential dwellings, storage yard of construction materials and woodland;
- (b) to the east are ponds, active/fallow agricultural land, storage yards and vehicle park;
- (c) to the south are active agricultural land, ponds, storage yards and residential dwellings; and
- (d) to the west are active agricultural land, woodland and a storage yard.

9. Planning Intention

9.1 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of

land for open storage uses that cannot be accommodated in conventional godown premises.

- 9.2 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by nature features and to contain urban sprawl as well as to provide passive recreation outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 10.2 The following Government departments have following comments on the application and their views on the application are summarised as follows:

Land Administration

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

- (a) has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lots (OSALs) and Government Land (GL). The OSALs are 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;
- (c) no permission is given for the occupation of the GL in the application site (about 1720m² subject to verification). The act of occupation of the above GL without Government’s prior approval is not allowed;
- (d) LandsD has grave concerns given that there are unauthorised building works and/or uses on Lot Nos. 922, 936 & 938 in D.D.102 which are already subject to lease enforcement actions according to case priority. The lot owner should remedy the lease breaches as demanded by LandsD; and
- (e) advisory comments as detailed in **Appendix IV**.

Project Interface

10.2.2 Comments from the Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD):

The Site is within the proposed boundary of San Tin Technopole (STLMC DN). According to the latest tentative development programme of STLMC DN, the construction work and land resumption will commence after the Finance Committee funding approval tentatively by 2024. Thus, the Site, within the boundary of STLMC DN, will probably be required for timely clearance and construction.

11. **Public Comments Received During Statutory Publication Period**

On 21.4.2023, the application was published for public comment. During the first three weeks of the statutory public inspection period, a total of 103 public comments were received (**Appendix V**). 97 comments from individuals support the application for the reasons that the proposed development could promote local farm economy and eco-tourism; could provide a place for flower viewing with recreational and education purposes; and would not generate adverse traffic impact with the support of existing public transport connection. The other six comments from a local company and individuals object to/raise concerns on the application on the grounds that the existing transport facilities and village roads could not support the additional traffic and pedestrian flow generated by the proposed development; and the proposed development may generate adverse environmental, drainage, hygiene and security impacts which may affect local residents.

12. **Planning Considerations and Assessments**

12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm), shop and services and education centre for a period of three years at the Site zoned “GB” (about 65.2%) and “OS” (about 34.8%) on the OZP (**Plan A-1a**). The proposed development, which can be regarded as a passive leisure and recreational use through proper regulation and site management and does not involve any site formation works or filling of land/pond, is considered not in conflict with the planning intention of the “GB” zone and could be tolerated. Besides, PM(N), CEDD advises that the Site falls within the boundary of San Tin Technopole and will be required for timely clearance and construction for relevant works tentatively by 2024. As such, approving the application for temporary uses pending permanent development may be considered. Should the application be approved by the Board, relevant advisory clause will be recommended to remind the applicant that the Site may be resumed by the Government and that the proposed uses may be terminated at any time during the planning approval period for implementation of imminent government projects.

- 12.2 The Site is located in an area of rural landscape character predominated by agricultural land, ponds and woodland intermixed with residential dwellings and storage yards (**Plans A-2 and A-3**). The proposed development which does not involve any site formation works and permanent structures is considered not incompatible with the surrounding environment.
- 12.3 As stated in TPB PG-No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Also, the development should not involve extensive clearance of vegetation and affect the existing natural landscape, as well as overstrain the capacity of existing and planned infrastructure in the area. Passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration. In this regard, the proposed development does not involve any site formation, filling of pond and permanent structure, with total area of cultivation and pond taking more than half of the Site (i.e. about 15,586m² or 56.1% for paddy field and farming area, and about 3,297m² or 11.9% for ponds). The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application from the landscape planning perspective and considers that significant adverse landscape impact arising from the applied use is not anticipated. In view of the above, and noting the views of other concerned departments as stated in paragraph 12.4 below, the proposed temporary hobby farm is considered not in conflict with TPB PG-No. 10.
- 12.4 DLO/YL of LandsD has concerns on the application in view of the UBW at the Site. In this regard, the applicants have committed that they will submit STW applications to LandsD for erection of the proposed structures at the Site. Relevant advisory clause on the need for application to LandsD for regularisation of the UBWs is also recommended should the application be approved by the Committee. Other concerned government departments including Director of Agriculture, Fisheries and Conservation, Director of Environmental Protection, Commissioner for Transport Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no adverse comment on the application. Should the application be approved, technical requirements of CE/MN, DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 13.2 below. The applicants will also be 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 to minimise any potential environmental impacts.
- 12.5 For the public comments providing concerns on or objecting to the application received as detailed in paragraph 11, the planning assessment and departmental comments above are relevant. Regarding the public comments on the potential traffic impact, the applicants would suggest visitors to take public transport to the Site. Two large-scale public car parks are also located in the vicinity of the Site

to cater the needs of visitors. C for T has no objection to the application from traffic engineering point of view.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments in paragraph 11, the Planning Department has no objection to the application.
- 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 27.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no public announcement system or any form of audio amplification system, as proposed by the applicants, is allowed to be used on the site during the planning approval period;
- (b) 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 27.4.2024;
- (c) 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 27.7.2024;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 27.4.2024;
- (f) 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 27.7.2024;
- (g) if any of the above planning condition (a) or (d) 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; and

- (h) if any of the above planning condition (b), (c), (e) or (f) 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.

Advisory Clauses

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

- 13.3 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 "OS" zone which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses, and the planning intention of the "GB" zone which is for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intentions, 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 renewal of the planning 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 applicants.

15. Attachments

Appendix I	Application form received on 22.3.2023
Appendix Ia	FI received on 28.6.2023
Appendix Ib	FI received on 28.8.2023
Appendix II	Relevant Extract of TPB PG-No. 10
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses

Appendix V	Public comments
Drawing A-1	Layout plan
Drawing A-2	Public Access
Plan A-1a	Location plan
Plan A-1b	Application site and land use proposal of San Tin Technopole
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to 4d	Site photos

**PLANNING DEPARTMENT
OCTOBER 2023**