

RNTPC Paper No. A/YL-NTM/468A
For Consideration by the
Rural and New Town
Planning Committee
on 1.3.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/468

<u>Applicant</u>	: Li Venus represented by Tang Lok San
<u>Site</u>	: Lots 2161 and 2163 (Part) in D.D. 102, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,489.7m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan No. S/YL-NTM/12
<u>Zoning</u>	: “Green Belt” (“GB”)
<u>Application</u>	: Proposed Temporary Animal Boarding Establishment with Ancillary Facilities for a Period of 3 Years and associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary animal boarding establishment with ancillary facilities for a period of 3 years and associated filling of land at the application site (the Site) which falls within an area zoned “GB” on the approved Ngau Tam Mei OZP (**Plan A-1a**). According to the Notes of the “GB” zone of the OZP, ‘Animal Boarding Establishment’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Filling of land within “GB” zone also requires planning permission from the Board. The Site is currently fenced-off and partly hard-paved with five temporary structures erected without valid planning permission. (**Plans A-4a to A-4b**)
- 1.2 According to the applicant, six one to two-storey structures (not more than 7m in height) with a total gross floor area of about 499.65m² for animal boarding establishment, dog function room, canopy and ancillary office and staff lounge are proposed at the Site. One private car parking space and one loading/unloading bay for light goods vehicle will be provided (**Drawing A-1**).

The applicant also applies for regularisation of filling of land by concrete (about 0.2m in depth) at part of the Site (about 903.9m² or 61%) for site formation, while the remaining unpaved area are grassland for dog function area and tree protection zone (**Drawing A-2**). The applicant proposes to remove all concrete upon expiration of planning permission. Besides, there are 41 existing trees within the Site. Four existing trees of undesirable invasive species are proposed to be removed due to risk of tree failure and the remaining 37 trees are proposed to be retained. Septic tank and soakaway system are also proposed to be installed at the Site for sewage treatment.

- 1.3 The proposed operation hours are from 8:00 a.m. to 6:00 p.m. daily including public holidays. There will be animals staying overnight at the Site after operation hours. The animal boarding establishment would accommodate no more than 25 dogs, which will be kept within enclosed structures built with sound proofing materials, and equipped with 24-hour air conditioning and mechanical ventilation system. Three to four staff members will be stationed at the Site to support the operation of the animal boarding establishment. No more than four dogs with dog masks will be allowed outdoor at the same time during the operation hours. No public announcement system, whistle blowing, portable loud speaker or any form of audio amplification system will be used. Existing fences will be extended to 4.8m in height to mitigate possible nuisance to nearby residents. An ingress/egress is located at the eastern boundary of the Site, which is accessible to Kwu Tung Road via a local access. The site layout plan and paving plan submitted by the applicant are at **Drawings A-1** and **A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 2.11.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 9.1.2024 [#] **(Appendix Ia)**
 - (c) FI received on 21.2.2024 [#] **(Appendix Ib)**

[#] *exempted from publication requirement*
- 1.5 On 22.12.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for a period of two months to allow more time for the applicant to prepare FI in support of the application.

2. **Justification from the Applicant**

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

- (a) ‘Animal Boarding Establishment’ is a Column 2 use under the “GB” zone and the proposed temporary use for a period of three years will not jeopardise the long-term planning intention of the “GB” zone. Besides, the proposed development is not incompatible with the surrounding areas in terms of scale and nature.
- (b) The proposed use can serve the strong local demand of animal boarding services.
- (c) Part of the Site will be hard-paved with concrete for site formation and all concrete will be removed upon expiration of planning permission.
- (d) The applicant will comply with approval conditions imposed by the Committee which may enhance amenity value of the surrounding area and minimise possible flooding in the area.
- (e) No animal will be staying at outdoor area outside operation hours, and no more than four dogs with dog masks will be allowed outdoor at the same time during the operation hours to minimise possible nuisance.
- (f) The applicant will rectify the unauthorised building works (UBW) at the Site as soon as possible and will submit Short Term Waiver application to Lands Department (LandsD) for the erection of the proposed structures.

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

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending the notice to relevant owners’ corporation(s)/ owners’ committee(s)/ mutual aid committee(s)/ management office(s) or rural committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

- 5.1 The Northern Metropolis (NM) Development Strategy released in 2021 put forward the proposal for San Tin Technopole (the Technopole), which covers the Hong Kong-Shenzhen Innovation and Technology Park under construction at the Loop and the San Tin/Lok Ma Chau area. According to the Revised Recommended Outline Development Plan (RODP) for the Technopole (**Plan A-1b**) which was published in February 2024, the Site is included in the boundary of the Technopole designated for 'Road'. According to the estimated programme, site formation works would tentatively target to commence in Q4 2024 in phases. The Site also largely falls within an area shown as 'Road' on the new draft San Tin Technopole OZP (No. S/STT/C) which was considered and agreed by the Board on 23.2.2024 (**Plan A-1c**).
- 5.2 The Site is subject to active planning enforcement action (No. E/YL-NTM/404). Reinstatement Notice (RN) was issued on 31.5.2023 for the land filling and requiring reinstatement of the concerned land (**Plan A-2**). As the Site has not been reinstated upon expiry of the RN, prosecution action may be followed.

6. **Previous Application**

The Site is the subject of a previous application (No. A/YL-NTM/405) for proposed public utility installation (solar energy system) which was rejected by the Board on review in 2021, mainly on the considerations that the proposed development was not in line with the planning intention of the "GB" zone, the TPB-PG No. 10 and the assessment criteria for considering applications for solar photovoltaic system. Details of the previous application is summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. **Similar Applications**

- 7.1 There was no similar application for temporary animal boarding establishment within the same "GB" zone on the same OZP in the past five years. However, there were two similar applications (No. A/YL-NTM/391 and 433) involving filling of land within the "GB" zone on the same OZP in the past five years. Details of the similar applications are summarised at **Appendix III** and its location is shown on **Plan A-1**.
- 7.2 Application No. A/YL-NTM/391 for filling of land and filling of pond for permitted agricultural use was approved by the Board on review in 2020 mainly on the considerations that environmental impact of filling of land and pond for a

fish farm was relatively insignificant compared to other uses with filling of land and pond commonly found in rural areas.

- 7.3 Application No. A/YL-NTM/433 for proposed filling of land to avoid mosquito breeding was rejected by the Committee in 2022 mainly on the considerations that the proposed development was not in line with the planning intention of “GB” zone; the proposed development was not in line with the TPB PG- No. 10; and approval of the application would set an undesirable precedent for similar applications within the “GB” zone.

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

8.1 The Site is:

- (a) accessible to Kwu Tung Road via a local access; and
- (b) fenced-off and partly hard-paved with five temporary structures erected without valid planning permission.

- 8.2 The surrounding areas are rural in character intermixed with residential dwellings, open storage/storage yards, car repairing workshop, grass land, woodland and a Permitted Burial Ground.

9. Planning Intention

- 9.1 The planning intention of the “GB” zone is primarily 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. There is a general presumption against development within this zone.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments 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 IV and V** respectively.
- 10.2 The following Government departments have concerns/views on the application:

Land Administration

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

- (a) He has adverse comments on the application.
- (b) He has grave concerns given that there are UBWs and/or uses on Lot No. 2161 in D.D. 102 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demand by LandsD.
- (c) The Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (d) Should the application be approved, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularize any irregularity on the 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. Application(s) for any of the above will be considered by the LandsD acting in the capacity of 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.
- (e) Advisory comments as detailed in **Appendix V**.

Project Interface

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

The Site is within the proposed boundary of the Technopole. According to the latest tentative development programme of the Technopole, it is targeted to commence the works in phases tentatively by 2024 after the Finance Committee of the Legislative Council funding approval. Therefore, the Site, within the boundary of the Technopole, may probably be required for timely clearance and construction.

11. Public Comments Received During Statutory Publication Period

On 14.11.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from the Kadoorie Farm & Botanic Garden Corporation and an individual were received objecting to/raising concerns on the application mainly on the grounds that the provision of animal boarding establishment services far exceed the possible demand in the area and there is an enforcement case covering the Site which should be settled before considering the planning application. (**Appendix VI**)

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary animal boarding establishment with ancillary facilities for a period of 3 years and associated filling of land at the Site which falls within an area zoned “GB” on the OZP. The planning intention of the “GB” zone 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. There is a general presumption against development within this zone. While the proposed use and associated filling of land are considered not in line with the planning intention of the “GB” zone, PM(N), CEDD advises that the Site falls within the boundary of the Technopole and will be required for timely clearance and construction for relevant works in phases tentatively by 2024 (**Plan A-1b**). As such, approving the current application for temporary use 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 use may be terminated at any time during the planning approval period for implementation of imminent government projects.
- 12.2 Filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. The proposed use at the Site would involve associated filling of part of the Site by not more than 0.2m from +12.1mPD to +12.3mPD, which is similar to the site level in the surrounding area. In this regard, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspective. An approval condition requiring the reinstatement of the Site is recommended should the Committee decide to approve the application.
- 12.3 The proposed temporary use and associated filling of land is considered not incompatible with the surrounding major land uses which are rural in character

and intermixed with residential dwellings, open storage/storage yards and woodland (**Plan A-2**).

- 12.4 According to the 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. The development and its vehicular access road should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape, adversely affect drainage or aggravate flooding and slope stability in the area, and the development itself should not be the source of pollution. The proposed use at the Site would involve filling of part of the site by not more than 0.2m, and the Site will be reinstated upon expiration of planning permission. Noting that four existing trees of undesirable invasive species are proposed to be removed due to risk of tree failure and the remaining 37 existing trees are to be retained, CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective. Besides, DEP has no objection to the application noting that no public announcement system will be used at the Site, and no animal will be staying at the outdoor area outside operation hours to minimise nuisances to the surrounding area.
- 12.5 Other relevant departments, including Commissioner for Transport, Director of Agriculture, Fisheries and Conservation and Director of Fire Services (D of FS), have no objection to or no comment on the proposed use and associated filling of land. 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 applicant 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.
- 12.6 As detailed in paragraph 7 above, the Board/the Committee has approved on review and rejected one similar application respectively involving filling of land in “GB” zone on the OZP for the past five years. As the Site falls within the boundary of the Technopole with the Revised RODP published in February 2024 and new draft OZP to be gazetted soon, and site formation works to commence in phases tentatively by 2024, it is considered that the planning circumstances of the current application is different from those previous and similar applications.
- 12.7 Regarding the public comments mentioned in paragraph 11, the departmental comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, 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 1.3.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) All dogs shall be kept inside the enclosed structures on the site from 6 p.m. to 8 a.m., as proposed by the applicant, during the planning approval period;
- (b) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the site, as proposed by the applicant, during the planning approval period;
- (c) 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 1.9.2024;
- (d) in relation to (c) 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 1.12.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (f) 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 1.9.2024;
- (g) in relation to (f) 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 1.12.2024;
- (h) if any of the above planning condition (a), (b) and (e) 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;
- (i) if any of the above planning condition (c), (d), (f) or (g) 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
- (j) 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 V**.

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

the proposed use and associated filling of land are not in line with the planning intention of the "GB" zone which is intended 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 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 received on 2.11.2023
Appendix Ia	FI received on 9.1.2024
Appendix Ib	FI received on 21.2.2024
Appendix II	Extract of TPB PG-No. 10
Appendix III	Previous and Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comments
Drawing A-1	Plan showing paved area
Drawing A-2	Layout plan
Drawing A-3	Proposed access plan
Plan A-1a	Location plan with previous and similar applications
Plan A-1b	Application site and Revised RODP of the San Tin Technopole

Plan A-1c	Application site and draft San Tan Technopole OZP
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
MARCH 2024**