

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/314

<u>Applicant</u>	: Ms. WONG Yin Mia represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Lot 361 S.B. RP (Part) in D.D. 112, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	: About 531m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 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 place of recreation, sports or culture (hobby farm) for a period of 5 years (**Plan A-1**) and to fill part of the Site which is required mainly for the proposed structures and circulation space (**Drawing A-3**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land. The Site is currently fenced, vacant, partly hard-paved and partly covered by weeds (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of two previous applications. The last application (No. A/YL-SK/241) for the same proposed use for a period of 3 years without filling of land (**Plan A-1**) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 21.12.2018. The planning approval was revoked on 21.3.2021 due to non-compliance with approval conditions.
- 1.3 According to the applicant, there will be two 2-storey structures with building heights of not more than 6m and a total non-domestic floor area of about 192m² for site office, reception, changing room, agricultural education room, storage of farm tools and washroom uses. Part of the Site (about 160m² or about 30% of the

Site) is proposed to be filled up (by not more than 0.2m to raise the site level from about 20.2 mPD to about 20.4 mPD) and hard-paved by concrete for the erection of the two structures, circulation space, and storage of farm tools and potted plants. About 250m² (or about 47% of the Site) will be used as farmland area. The remaining part of the Site (about 121 m² or about 23% of the Site) on existing soil ground will be used as circulation area. The operation hours will be from 9:00am to 6:00pm daily (including public holidays). No parking space will be provided on-site. The Site is accessible via a local access road branching off from Shek Kong Airfield Road. The location plan, layout plan and paving ratio plan submitted by the applicant are at **Drawings A-1 to A-3**.

- 1.4 Compared with the last approved application (No. A/YL-SK/241), the current application is the same in terms of the use, number of structures and building heights, with slight reduction in site area and floor area, different site layout with reduction of farming area from 273m² (50% of the site area under the approved application) to 250m² (47% of the site area) as well as filling of land.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with Planning Statement received on 26.7.2021 (**Appendix I**)
 - (b) Further information (FI) received on 20.9.2021 (*exempted from publication*) (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarised as follows:

- (a) the application is on a temporary basis for a period of 5 years and the hobby farming activity is similar to the always-permitted agricultural use. Therefore, the application will not jeopardise the long-term planning intention of the “AGR” zone and is also considered not incompatible with the surrounding land uses;
- (b) under the New Agriculture Policy (NAP) introduced by the Government, hobby farms can help farmers to market their produce, promote sustainable hobby farming and encourage public to participate in greening activities and enhance their environmental awareness;
- (c) applications for the same use in the surrounding area (e.g. Nos. A/YL-SK/241, 290 and 297) were previously approved by the Committee. Approving the current application is in line with Committee’s previous considerations;
- (d) the estimated maximum number of visitors per day would be about 10, and there would be around 2 staff members working on-site. No parking space will be provided on-site, and visitors are required to access the Site on foot from Kam Sheung Road. No adverse traffic impact is envisaged;

- (e) the paved area is kept to the minimal for site formation, erection of structures, circulation space, and placement of farm tools and potted plants; and
- (f) no significant adverse environmental, air, noise, sewerage, drainage and landscape impacts are expected. The applicant would follow the relevant guidelines from the Government departments in minimizing the impacts of the proposed development.

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

The applicant is not the ‘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 (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications Nos. A/YL-SK/215 and 241 for proposed temporary shop and services (real estate agency) and proposed temporary place of recreation, sports or culture (hobby farm) uses respectively. Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

One rejected application

- 5.2 Application No. A/YL-SK/215 for proposed temporary shop and services (real estate agency) was rejected by the Committee on 26.8.2016 mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; it was not compatible with the surroundings; and the approval of the application would set an undesirable precedent for similar applications within the “AGR” zone.

One approved application

- 5.3 Application No. A/YL-SK/241 for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years was approved with conditions by the Committee on 21.12.2018 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; it was considered not incompatible with the surrounding areas; it would unlikely generate significant adverse environmental, traffic, landscape or drainage impacts; relevant Government departments had no adverse comment on the application; the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions;

and approval of the application was in line with the Committee's previous decisions. However, the planning approval was revoked on 21.3.2021 due to non-compliance with approval conditions in relation to the implementation of landscape and drainage proposals, and the submission and implementation of fire service installations (FSIs) proposal.

6. Similar Applications

- 6.1 There are six similar applications (Nos. A/YL-SK/235, 244, 291, 294, 299 and 306) for temporary place of recreation, sports or culture (hobby farm) use (with animal hospice services establishment for application No. A/YL-SK/291) within the same "AGR" zone on the OZP. The former three applications are for a period of 3 years without filling of land while the last three are for a period of 5 years with filling of land. Details of these applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.
- 6.2 Among the six similar applications, five applications (Nos. A/YL-SK/235, 244, 294, 299 and 306) were approved by the Committee from 2018 to 2021 on similar considerations as stated in paragraph 5.3. The remaining application for temporary hobby farm with animal hospice services establishment use (No. A/YL-SK/291) was rejected by the Committee in November 2020 mainly on the grounds that the animal hospice services establishment use was not in line with the planning intention of the "AGR" zone and was not incompatible with the surrounding environment.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

- 7.1 The Site is:
- (a) currently fenced, vacant, partly hard-paved and partly covered by weeds; and
 - (b) accessible via a local access road branching off from Shek Kong Airfield Road.
- 7.2 The surrounding areas are predominantly rural in character with active/fallow farmland, domestic dwellings/structures, open storage yard and vacant land:
- (a) to its immediate north are a local access branching off from Shek Kong Airfield Road and a nullah, and to its further north is the Airfield of Shek Kong Barracks;
 - (b) to its east, south and west are mainly pieces of active/fallow farmland intermixed with scattered domestic dwellings/structures and vacant land; and
 - (c) to its west and southwest are an open storage yard and Pat Heung Central Primary School respectively.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, planning permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) the Site comprises an Old Schedule Agricultural Lot 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; and
- (b) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on-site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 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 LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) as there is neither parking provision nor vehicular access to the Lot and the induced traffic impact is minimal, he has no comment on the application from traffic engineering perspective; and
- (b) the local access between Shek Kong Airfield Road and the Site is not managed by his department.

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 for any access connecting the Site and Shek Kong Airfield Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) he has no objection to the application, subject to the approval condition that 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, should be included;
- (b) the applicant is advised (i) to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance; (ii) 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 should follow the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test; and (iii) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (c) there is no environmental complaint in relation to the Site received in the past three years.

Landscape

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) based on aerial photo of 2020, the Site is located in an area of rural inland plains landscape character surrounded by vegetated areas, farmlands and village houses within an area zoned “Village Type Development” to the west of the Site. With reference to the site photos taken on 21.5.2021, the Site is vacant and covered by wild grass. Significant adverse impact on

existing landscape resources arising from the proposed development is not anticipated; and

- (c) further to the above, according to the layout plan provided by the applicant, the proposed development only involves two 2-storey structures and is proposed for farmland use, the application is considered not entirely incompatible with its surrounding area.

Agriculture and Nature Conservation

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

- (a) having regard to the FI (**Appendix Ia**), he has no strong view against the application of proposed hobby farm use and land filling from agricultural point of view on the understanding that agricultural activities are involved and the Site will be reinstated upon the expiry of the planning application; and
- (b) besides, he noted that the applicant will implement appropriate drainage measures to avoid causing pollution to the nearby semi-natural watercourse. As such, he has no strong view against the application from nature conservation perspective.

Building Matters

9.1.7 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 (BA) should be obtained, otherwise they are unauthorised building works (UBW). An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (c) his detailed comments are at **Appendix V**.

Drainage

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

- (a) he has no objection in-principle to the proposed development; and

- (b) should the Board consider that the application is acceptable from planning point of view, conditions should be stipulated in the approval letter requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in-principle to the proposal subject to 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 plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Security

9.1.10 Comments of the Secretary for Security (S for S):

the Site is in close proximity to the Shek Kong Barracks. Due to the security concerns, the application is not supported.

District Officer's Comments

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

his office received one comment on the application (**Appendix IV-b**) upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Commissioner of Police (C of P);
- (c) Director of Electrical and Mechanical Services (DEMS); and

- (d) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD).

10. Public Comments Received During Statutory Publication Period

On 6.8.2021, the application was published for public inspection. During the three-week statutory publication period, a total of 40 objecting comments were received, 38 of which are in a standard letter format (**Appendix IV-a**) from a Yuen Long District Council Member, two Indigenous Inhabitant Representatives and a Resident Representative of Shui Lau Tin Tsuen and local residents. They object to the application mainly on the grounds that the application would worsen the traffic condition and increase the risk of traffic accident at the local access road; and the proposed development would damage the local ecology and caused environmental impact. One objecting comment from an Indigenous Inhabitant Representative of Lin Fa Tei (same as the comment received by DO/YL at **Appendix IV-b**) comments that the commercial activities on-site would cause the adverse traffic impact and environmental nuisance to the surrounding area. The remaining one from an individual (**Appendix IV-c**) who objects to the application that the Site is the subject of a revoked planning permission.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site zoned “AGR” for a period of 5 years, with filling of land at a portion of the Site. According to the applicant, about 250m² (or about 47% of the Site) is proposed as farming area and a portion (about 160m², equivalent to about 30% of the Site) would be filled with concrete by not more than 0.2m (**Drawings A-2** and **A-3**) for the proposed structures, circulation space, and placement of farm tools and potted plants. 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 hobby farm use is generally not in conflict with the planning intention of the “AGR” zone. AFCD has no strong view against the application from agricultural point of view. In view of the above, it is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed temporary hobby farm with two 2-storey structures with a total floor area of 192m² is considered not incompatible with the surrounding environment where is predominantly rural in character intermixed with active/fallow farmland and domestic dwellings/ structures (**Plan A-2**). C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application from traffic, environmental, drainage and landscape aspects. However, the Site is in close proximity to the Shek Kong Barracks. S for S advises that approval of the application may result in security concerns.
- 11.3 The Site is the subject of two previous applications (**Plan A-1**), one of which (No. A/YL-SK/215) for a different proposed use of temporary shop and services (real estate agency) is irrelevant to the current application; whereas the other one (No. A/YL-SK/241) for the same proposed hobby farm use with farming area

occupying about 50% of the site area was approved with conditions mainly on the considerations as stated in paragraph 5 above.

- 11.4 For the six similar applications for hobby farm use within the same “AGR” zone (**Plan A-1**), five of them with farming area occupying about 54% to 73% of their site areas were approved with conditions by the Committee mainly on the considerations as mentioned in paragraph 6 above. The remaining one similar application for temporary hobby farm with animal hospice services establishment rejected by the Committee is subject to different circumstances and is irrelevant to the current application.
- 11.5 Regarding the 40 public comments received during the statutory publication period, the departmental comments and the planning considerations and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department does not support the application for the following reasons:

the application site is in close proximity to the Shek Kong Barracks. Approval of the application may result in security concerns.

- 12.2 Alternatively, 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 5 years until 24.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 24.3.2022;
- (d) in relation to (c) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 24.6.2022;
- (e) 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 24.3.2022;

- (f) in relation to (e) 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 24.6.2022;
- (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 installation 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 24.3.2022;
- (i) in relation to (h) above, the implementation of the fire service installation 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 24.6.2022;
- (j) if any of the above planning condition (a), (b) 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 (c), (d), (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 the 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 at **Appendix V**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I

Application Form with Planning Statement received on
26.7.2021

Appendix Ia	Further information (FI) received on 20.9.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendices IV-a to IV-c	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Paving Ratio Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**