

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-TT/530 AND 531

<u>Applicants</u>	: Ms. KWOK Wa Mui April	(Application No. A/YL-TT/530)
	Mr. LI Shu Fong	(Application No. A/YL-TT/531)
<u>Sites</u>	: Lot 1028 (Part) in D.D. 117, Tai Tong, Yuen Long, New Territories	(Application No. A/YL-TT/530)
	Lot 1030 (Part) in D.D. 117, Tai Tong, Yuen Long, New Territories	(Application No. A/YL-TT/531)
<u>Site Area</u>	: 200 m ² (about)	(Application No. A/YL-TT/530)
	566 m ² (about)	(Application No. A/YL-TT/531)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18	
<u>Zoning</u>	: “Agriculture” (“AGR”)	
<u>Application</u>	: Proposed Temporary Warehouse for Storage of Hardware Materials for a Period of 3 Years and Filling of Land	

1. The Proposals

- 1.1 The applicants seek planning permission to use the respective application sites (the Sites) for proposed temporary warehouse for storage of hardware materials for a period of 3 years and filling of land (**Plan A-1**). Although the proposed use is neither a Column 1 or 2 use in the “AGR” zone, the covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. Furthermore, filling of land within the “AGR” zone requires planning permission from the Board. For A/YL-TT/530, the Site is currently occupied by a vehicle repair workshop without valid planning permission (**Plans A-2, A-4a and A-4b**). For A/YL-TT/531, the Site is currently occupied by vacant temporary structures (**Plans A-2, A-4a to A-4c**).
- 1.2 The Sites involve three previous applications for temporary open storage or workshop uses with/without filling of land (**Plan A-1**), which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board between 1999 and 2021. Compared with the last application (No. A/YL-TT/513) for the Site

of application No. A/YL-TT/530, the current application is submitted by the same applicant for a different use on the same site. Compared with the last application (No. A/YL-TT/139) for the Site of application No. A/YL-TT/531, the current application is submitted by a different applicant for a different use at a larger site.

- 1.3 According to the applicants, the proposals are for storage of hardware materials. Plans showing the vehicular access leading to the Sites and site layout for the two applications submitted by the applicants are at **Drawings A-1a** to **A-2b** respectively.
- 1.4 The major development parameters of the current applications are summarised as follows:

Major Development Parameters	Application No. A/YL-TT/530	Application No. A/YL-TT/531
Proposed Use	Proposed Temporary Warehouse for Storage of Hardware Materials for a Period of 3 Years and Filling of Land	
Site Area	About 200 m ²	About 566 m ²
Total Floor Area (non-domestic)	About 200 m ²	About 566 m ²
Depth of Filling of Land	0.15 m (covering the whole Site)	
No. and Height of Structures	1 • for warehouse (5.5m, 1 storey)	1 • for warehouse (5m, 1 storey)
No. of Parking Space	Nil	
No. of Loading/Unloading (L/UL) Space	Nil	
Operation Hours	9:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 7:00 p.m. daily

- 1.5 In support of the applications, the applicants have submitted the following documents:
- (a) Application Form with plans received on 9.11.2021 (**Appendix Ia**) (application No. A/YL-TT/530)
- (b) Application Form with plans received on 9.11.2021 (**Appendix Ib**) (application No. A/YL-TT/531)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in the Application Forms (**Appendices Ia** and **Ib**). They are similar for both applications and summarised as follows:

- (a) Agriculture is declining with farmland being abandoned or changed to other uses. The proposals would put the Sites to better use.

- (b) The proposals will not affect the locals as the Sites are located at a relatively remote area. There will be no adverse visual, landscape, drainage, sewerage and geotechnical impacts arising from the proposals.

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

- 3.1 For application No. A/YL-TT/530, 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. 31A) by posting site notices and sending the notices to the Shap Pat Heung Rural Committee by registered post.
- 3.2 For application No. A/YL-TT/531, the applicant is one of the two “current land owners” and has complied with the requirements as set out in TPB PG-No. 31A by obtaining consent from the other “current land owner”.
- 3.3 Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 For application No. A/YL-TT/530, the Site is subject to planning enforcement action against unauthorised development (UD) involving workshop use. Enforcement Notice (EN) was issued to the concerned parties on 20.10.2020 requiring discontinuation of the UD (**Plan A-2**). Upon expiry of the EN, the UD on the Site has not been discontinued. Further enforcement action is being considered.
- 4.2 For application No. A/YL-TT/531, the Site is subject to planning enforcement action against UD involving workshop use. EN was issued to the concerned parties on 20.10.2020 requiring discontinuation of the UD (**Plan A-2**). Upon expiry of the EN, the UD on the Site has been discontinued. On 7.7.2021, Reinstatement Notice (RN) requesting the Notice recipients to remove the hard paving (including concrete) and to grass the Site was issued. However, the Site had not been reinstated after expiry of the RN. Further enforcement action is being considered.

5. Previous Applications

- 5.1 For application No. A/YL-TT/530, the Site involves one previous application (No. A/YL-TT/513) for temporary vehicle repair workshop for a period of 3 years and filling of land submitted by the same applicant. The application was rejected by the Committee in 2021 mainly on the ground that the development was not in line with the planning intention of the “AGR” zone and the applicant also failed to justify the need for land filling. Compared with the last application (No. A/YL-TT/513), the current application is submitted by the same applicant for a different use on the same site.
- 5.2 For application No. A/YL-TT/531, the Site involves two previous applications (No. A/YL-TT/60 and 139) for temporary open storage or workshop uses each for a period of one or three year(s). The applications were rejected by the Committee in

1999 and 2003 respectively, mainly on the grounds that the proposals were not in line with the planning intention of the “AGR” zone; the proposals were considered not compatible with the surrounding areas; there were potential adverse environmental, traffic or drainage impacts; and approval of the applications would set an undesirable precedent, amongst others. Compared with the last application (No. A/YL-TT/139), the current application is submitted by a different applicant for a different use at a larger site.

5.3 Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.

6. Similar Applications

There are three similar planning applications (No. A/YL-TT/227, 295 and 448) for various temporary warehouse uses with/without filling of land or other uses within the subject “AGR” zone. All three applications were rejected by the Committee between 2008 and 2019, mainly on the grounds that the proposals were not in line with the planning intention of the “AGR” zone; the proposals were considered not compatible with the surrounding areas; there were potential adverse environmental and drainage impacts; and approval of the applications would set an undesirable precedent, amongst others. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

7. The Sites and Its Surrounding Areas (Plans A-1 to A-4c)

7.1 The Sites are:

- (a) accessible from Pak Sha Shan Road to its west via a local track (**Drawings A-1a and A-1b, Plan A-3**);
- (b) paved and occupied by a vehicle repair workshop without valid planning permission (for application No. A/YL-TT/530) (**Plans A-4a and A-4b**); and
- (c) paved and occupied by vacant temporary structures (for application No. A/YL-TT/531) (**Plans A-4a to A-4c**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) rural fringe in nature consisting mainly shrubland, agricultural land, chicken farm, plant nursery, scattered residential structures, vacant land and graves generally due east of the Sites, while the area generally due west consists of mainly open storage/storage yards, warehouses and chicken farm intermixed with a residential structure and vacant structures;
- (b) there are residential structures in the vicinity of the Sites with the nearest one located to the immediate east and about 30m to the east of the Sites of applications No. A/YL-TT/530 and 531 respectively;
- (c) to the further northwest of the Site is an area zoned “Other Specified Uses” annotated “Rural Use” on the subject OZP; and

- (d) the open storage/storage yards and warehouses in the vicinity are suspected UDs subject to enforcement action taken by the Planning Authority.

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 According to the Explanatory Statement to the OZP, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities in the “AGR” zone.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the applications and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) Each of the Sites 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.
- (b) Should planning approval be given to the applications, the lot owner(s) will need to apply to her office to permit the structures to be erected or to 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 her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 her department.

Traffic

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

- (a) The applicants were required to provide hourly trip generation and trip attraction of the proposals, clarifications on how the L/UL need would be addressed, specifications of the type/size of vehicles accessing the Sites and legible vehicular access plan. These comments have not been addressed.

- (b) Since Kung Um Road/Shap Pat Heung Road junction is very busy during peak hours, any traffic flow induced on there during peak hours are undesirable.
- (c) The land status of the access road/ path/ track/ run-in/out leading to the Sites from Pak Sha Shan Road shall be checked with the lands authority.
- (d) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (e) The applicant is reminded that sufficient space should be provided within the Sites for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Sites to the nearby public roads and drains.
- (b) The access road connecting the Sites with Pak Sha Shan Road is not and will not be maintained by his department. His department shall not be responsible for the maintenance of any access connecting the Sites and Pak Sha Shan Road.

Environment

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

Should the planning applications be approved, the applicants should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Use” to minimise any potential environmental nuisances.

Agriculture

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

- (a) She does not support the applications from agricultural point of view.
- (b) The Sites fall within the “AGR” zone and are currently paved with some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures are also available. The Sites possess potential for agricultural rehabilitation and can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.

Landscape

- 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has reservations on the applications from landscape planning perspective.
 - (b) With reference to the aerial photo of 2021 (**Plan A-3**), the Sites are situated in an area of miscellaneous rural fringe landscape character predominated by agricultural land, residential structures and woodlands with some suspected UDs of workshops, storages and warehouses in the vicinity. According to the site photos (**Plan A-4a** to **A-4c**), the Sites are hard-paved land occupied by temporary structures. No existing tree is observed within the Sites. Although further adverse landscape impact arising from the proposals is not envisaged, given that there is no similar application previously approved within the subject “AGR” zone, there is concern that approval of the planning applications may encourage other similar applications proliferate in the “AGR” zone. The cumulative impact of which would result in a general degradation of the landscape quality of the surrounding environment in “AGR” zone.

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 developments from the public drainage point of view.
 - (b) Should the Board consider that the applications are acceptable from the planning point of view, approval conditions requiring the submission, implementation and maintenance of the drainage proposals for the proposed developments to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

- 9.1.8 Comments of the Director of Fire Services (D of FS):
- (a) He has no objection in principle to the proposals subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposals, FSIs are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicants should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Sites, he is not in a position to offer comments on their suitability for the use proposed in the applications.
- (b) The applicants should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.10 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Sites fall within an area zoned “AGR”. The “AGR” zone on the Revised RODP forms part of the wider “AGR” zone in the vicinity of Yeung Ka Tsuen on the subject OZP.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the applications are for temporary use for a period of 3 years each. In considering the application for temporary uses, due consideration should be given on the planning intention of “AGR” zone of the Revised RODP and the OZP, as well as the compatibility of the proposed use with the existing/permitted uses.

9.1.11 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the subject applications.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Sites fall within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.

Others

9.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

The applicants should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

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

His office has not received any comment from the locals.

9.2 The following government departments have no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Periods

On 16.11.2021 and 19.11.2021, the applications were published for public inspection. During the first three weeks of the statutory public inspection periods, five public comments from Kadoorie Farm and Botanic Garden Corporation and four individuals were received objecting to / providing adverse comments on each of the applications (**Appendices IVa-1 to IVa-5** and **Appendices IVb-1 to IVb-5**). The salient grounds of objections / adverse comments mainly include that the proposals will cause adverse traffic, environmental and fire safety impacts on the surrounding areas; the proposals are not in line with the planning intention of the "AGR" zone and the Sites should be retained for agricultural use; insufficient justifications for land filling; approval of the applications would set an undesirable precedent; previous and similar planning applications have been rejected; and the status of planning enforcement action concerning the Sites should be taken into consideration.

11. Planning Considerations and Assessments

11.1 The applications are for proposed temporary warehouse for storage of hardware materials for a period of 3 years and filling of land at the Sites zoned "AGR" on the OZP. The proposed use 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. In this regard, DAFC does not support the applications from agricultural point of view as there are active agricultural activities and agricultural infrastructure in the vicinity of the Sites and the Sites possess potential for agricultural rehabilitation. No strong planning justifications have been given in the submissions for a departure from the planning intention, even on a temporary basis, and for the associated filling of land.

11.2 The Sites are located in a rural fringe area mixed with open storage/storage yards, warehouses, agricultural land and residential structures (**Plan A-2**). Although the proposals are considered not incompatible with the open storage/storage yards and

warehouses in the vicinity, most of these uses are suspected UDs subject to enforcement action being taken by the Planning Authority.

- 11.3 C for T is of the view that information such as traffic trip generation/attraction of the proposals and clarifications on L/UL should be provided. In this connection, there is no relevant information provided in the submissions to address the comments of C for T or to demonstrate that the proposals will not generate adverse traffic impacts. Other relevant departments, including DEP, CE/MN, DSD and D of FS, have no objection to/no adverse comments on the applications.
- 11.4 The Sites involve three previous applications for temporary open storage or workshop uses with/without filling of land, which were rejected by the Committee between 1999 and 2021 mainly on the grounds, amongst others, that the proposals were not in line with the planning intention of the “AGR” zone; and setting of an undesirable precedent. Three similar applications for warehouse uses within the subject “AGR” zone have also been rejected by the Committee between 2008 and 2019 on similar grounds. As such, rejecting the current applications is generally in line with the Committee’s previous decisions. Moreover, approval of the current applications would set an undesirable precedent. In this regard, CTP/UD&L, PlanD has reservation on the applications from landscape planning perspective and considers that the cumulative effect of approving such similar applications, even on a temporary basis, would result in further degradation of the landscape quality of the surrounding area.
- 11.5 There were five public comments objecting to / providing adverse comments on each of the applications as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 as summarised in paragraph 10, the Planning Department does not support the two applications for the following reason:

the proposed use 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, and 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 to justify a departure from the planning intention, even on a temporary basis, as well as for the associated filling of land.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid on a temporary basis each for a period of 3 years until 24.12.2024. The following conditions of approval and advisory clauses for the respective applications are also suggested for Members’ reference:

Approval conditions (for application No. A/YL-TT/530)

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of 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 24.6.2022;
- (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 24.9.2022;
- (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 24.6.2022;
- (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 24.9.2022;
- (h) if any of the above planning conditions (a), (b) or (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 conditions (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 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.

Approval conditions (for application No. A/YL-TT/531)

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of 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 24.6.2022;
- (c) in relation to (b) 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 24.9.2022;
- (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 24.6.2022;

- (f) in relation to (e) 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 24.9.2022;
- (g) if any of the above planning conditions (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;
- (h) if any of the above planning conditions (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; and
- (i) 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 applications and decide whether to grant or refuse to grant permission(s).
- 13.2 Should the Committee decide to reject the application(s), Members are invited to advise what reason(s) for rejection should be given to the applicant(s).
- 13.3 Alternatively, should the Committee decide to approve the application(s), Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission(s), and the period of which the permission(s) should be valid on a temporary basis.

14. Attachments

- Appendix Ia** Application Form with plans received on 9.11.2021 (application No. A/YL-TT/530)
- Appendix Ib** Application Form with plans received on 9.11.2021 (application No. A/YL-TT/531)
- Appendix II** Previous Applications covering the Sites
- Appendix III** Similar Applications within the subject “AGR” Zone on the OZP
- Appendices IVa-1 to IVa-5** Public Comments received during the Statutory Publication Period (application No. A/YL-TT/530)
- Appendices IVb-1 to IVb-5** Public Comments received during the Statutory Publication Period (application No. A/YL-TT/531)
- Appendix V** Recommended Advisory Clauses

Drawings A-1a and A-1b	Vehicular Access Plans
Drawings A-2a and A-2b	Site Layout Plans
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A- 4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**