

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/590

<u>Applicant</u>	:	Erickson Organic Farm Company Limited
<u>Site</u>	:	Lots 1676, 1677, 1678, 1679 S.A and 1679 RP in D.D. 118, Sung Shan New Village, Yuen Long
<u>Site Area</u>	:	2,540 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/19
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Public Vehicle Park and Open Storage of Agricultural and Construction Machinery and Materials for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public vehicle park and open storage of agricultural and construction machinery and materials for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, 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). Filling of land also require planning permission from the Board. The Site is currently vacant, fenced off and partly covered with vegetation and partly formed (**Plans A-2 to A-4**).
- 1.2 The Site can be accessed from Tai Shu Ha Road East via a local track (**Drawing A-2**). According to the applicant, the proposal is for a public vehicle park for private cars with charging facilities and open storage of agricultural and construction machinery and materials. The public vehicle park will be opened for use by the general public on hourly or monthly rental basis. Electric charging facilities for 20 vehicles will be installed in the proposed vehicle park. Plans showing vehicular access and site layout submitted by the applicant are at **Drawings A-1 to A-2** respectively.
- 1.3 The major development parameters of the current application are summarised as follows:

Site Area	About 2,540 m ²
Total Floor Area	Not more than 1,000 m ²
Extent of Filling of Land	About 2,540 m ² (i.e. the entire Site, with a depth of about 0.2m of bitumen or concrete)
No. of Structures	7 (for car parking, site offices, toilets, rain shelter for storage and meter room)
Height of Structures	1 storey (3-5m)
No. of Parking Spaces	20 (for private car with charging facilities) 20 (for private car/light goods vehicle)
No. of loading/unloading (L/UL) Spaces	1 (for heavy goods vehicle (HGV))
Operation Hours	24 hours daily

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

- (a) Application Form received on 20.3.2023 (Appendix I)
- (b) Supplementary Information received on 27.3.2023 and 28.3.2023 (Appendix Ia)
- (c) Further Information (FI) received on 8.5.2023 (Appendix Ib)
[accepted and exempted from publication requirements]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and supplementary information (**Appendices I to Ia**). They can be summarised as follows:

- (a) there is lack of proper parking space in Sung Shan New Village, which affects the daily traffic and may result in traffic congestion/accidents. The proposed public vehicle park can satisfy such need in the vicinity. To support the Government's low-carbon policy, charging facilities will be provided for electric vehicles; and
- (b) the proposed open storage use is to support applicant's agricultural business in Tai Tong area, which involves large-scale machineries for soil improvement. The applicant applies bio-enzyme to polluted soil, in order to neutralise and re-active the soil for organic farming. The proposed open storage use is for storage of machines. Proximity to the farmland in Tai Tong could enhance operational efficiency and lower costs.

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. 31A) by posting site notice and sending the notice to the Shap Pat Heung

Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

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

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13G) are relevant to the application. The Site falls within Category 3 under TPB PG-No. 13G promulgated by the Board on 14.4.2023. The relevant extract of the Guidelines is attached at **Appendix II**.

6. Previous Application

There is no previous application concerning the Site.

7. Similar Applications

7.1 There is no similar application for public vehicle park. There are two similar applications for various temporary open storage uses with/without other uses within the subject "AGR" zone since 2018 which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7.2 Applications No. A/YL-TT/428 and 500 for proposed temporary open storage (with ancillary car park for the latter one) for a period of three years were rejected by the Committee in 2018 and 2020 respectively mainly on the considerations that the proposed developments were not in line with the planning intention of the "AGR" zone and the then TPB PG-No. 13E/13F; and approval of the application would set an undesirable precedent.

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

8.1 The Site is:

- (a) accessible from Tai Shu Ha Road East to its northwest via a local track (**Plan A-2**); and
- (b) currently vacant, fenced off and partly covered with vegetation and partly formed (**Plans A-2 to A-4**).

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

- (a) rural character intermixed with warehouses, open storage/storage yards, residential structures, agricultural land, parking of vehicles, a pond and vacant land/structures;

- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate northeast; and
- (c) the open storage/storage yards and warehouses in the vicinity are suspected unauthorized developments (UDs) subject to planning enforcement action.

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities in the subject “AGR” zone.

10. Comments from Relevant Government Bureau/Departments

- 10.1 Apart from the government bureau/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 adverse comment/objection to the application.

Agriculture

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

The Site falls within the “AGR” zone and is vacant. The agricultural activities are active in the vicinity and agricultural infrastructures, such as road access and water source, are also available. The Site can be used for agricultural activities, such as open-field cultivation, greenhouses and plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective.

Environment

- 10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there is L/UL bay for HGVs proposed (3.5m X 11m) to enter/be parked at the Site, environmental impacts on sensitive receivers nearby due to traffic of heavy vehicles is expected; and
- (b) there was one environmental complaint concerning the Site received in 2020 about suspected flytipping of construction and demolition at Lots 1676 to 1678, 1679 S.A and 1679 RP in D.D. 118. Following

two inspections in May 2020, a stockpile heap was found, which were fenced off by steel sheets. No dumping activity was being carried out nor any offenders were identified at scene and hence no prosecution could be initiated.

District Officer's Comments

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

His office has received a letter from Shap Pat Heung Rural Committee (SPHRC) representing villagers of Sung Shan New Village who object to the application mainly on the grounds that consent has not been reached on the usage of local track as access to the Site between the applicant and the villagers (same copy as the public comment at **Appendix VI-1**).

11. Public Comments Received During the Statutory Publication Period

On 31.3.2023, the application was published for public inspection. During the statutory public inspection periods, 11 objections/adverse comments were received from SPHRC (**Appendix VI-1**), residents' concern groups (十八鄉區崇山新村居民協會, 十八鄉居民協會 and 崇山新村居民安全關注組 in **Appendices VI-2 to VI-4** respectively), Kadoorie Farm and Botanic Garden Corporation (**Appendix VI-5**), residents and individuals (**Appendices VI-6 to VI-11**) on the following grounds:

- (a) the proposed uses would generate adverse impacts on the traffic condition in the rural environment and the existing local track cannot accommodate HGVs. The traffic generated by the proposed development would further threaten the pedestrian safety;
- (b) there is lack of consent between the applicant and the villagers on the use of local track at the Site. Approval of the application would intensify the dispute;
- (c) the proposed uses and filling of land would generate adverse drainage and environmental impacts on the surrounding area. The applicant should submit relevant technical assessments to support the application;
- (d) the proposed uses are not in line with the planning intention of the "AGR" zone and the potential cumulative impact on approving the current application should be considered as it would set a precedent in the subject "AGR" zone; and
- (e) the proposal is an example of 'Destroy to Build' and questions should be asked about the UD's in the vicinity.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary public vehicle park and open storage of agricultural and construction machinery and materials for a period of three years and associated filling of land at the Site zoned "AGR" on the OZP. The proposed uses are 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. DAFC does not support the application from agricultural perspective mainly on the consideration that the Site possesses

potential for agricultural rehabilitation as agricultural infrastructures such as road access and water source are available. No strong planning justifications have been given in the submission for a departure from the planning intention, even on a temporary basis.

- 12.2 While filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and DEP have no objection to filling of land from drainage and environmental perspectives.
- 12.3 Although there are warehouses and open storage/storage yards in the vicinity (**Plan A-2**), they are suspected UD's subject to planning enforcement action. The proposed uses are generally considered not compatible with the surrounding rural character intermixed with residential structures and agricultural land.
- 12.4 DEP does not support the proposed uses as there are sensitive receivers in the vicinity of the Site (with the nearest residential use located to its immediate northeast) (**Plan A-2**), and the proposed uses involving the use of heavy vehicles will cause environmental nuisance. Other relevant departments, including Commissioner for Transport, CE/MN, DSD and Director of Fire Services have no objection to/no adverse comment on the application.
- 12.5 The Site falls within Category 3 areas under TPB PG-No. 13G. The application is not in line with TPB PG-No. 13G in that no previous approval for similar open storage uses have been granted to the Site and there are objections to the application from DAFC, DEP and the locals.
- 12.6 There are two similar applications within the subject “AGR” zone rejected by the Committee since 2018 mainly on similar grounds that the proposed developments were not in line with the planning intention of the “AGR” zone and the then TPB PG No. 13E/13F; and approval of the application would set an undesirable precedent. Rejecting the current application is generally in line with the Committee's previous decisions.
- 12.7 There are 11 public comments objecting to/providing adverse comments on the application received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:
 - (a) the proposed uses are 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 justifications have been given in the submission for a departure from the planning intention, even on a temporary basis;

- (b) the proposed open storage use is not in line with the Town Planning Board Guidelines No. 13G “Application for Open Storage and Port Back-up Uses” in that no previous approval has been granted to the Site and there are adverse departmental comments and local objections; and
- (c) the applicant fails to demonstrate in the submission that the proposed land filling is essential for the proposed uses.

13.2 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 three years until 19.5.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a drainage impact assessment 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 19.11.2023;
- (b) in relation to (a) above, the implementation of the drainage impact assessment 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 19.2.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.6.2023;
- (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 19.11.2023;
- (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 19.2.2024;
- (g) if the above planning condition (c) 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 condition (a), (b), (d), (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 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 20.3.2023
Appendix Ia	Supplementary information received on 27.3.2023 and 28.3.2023
Appendix Ib	FI received on 8.5.2023
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 to VI-11	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**