RNTPC Paper No. A/YL-KTN/609 and 610 For Consideration by the Rural and New Town Planning Committee on 3.8.2018

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/YL-KTN/609 and 610

Applicant : Mr. TANG Wai-Ip

Site : Lot 1505 RP in D.D. 107, Shui Mei (Application No. A/YL-KTN/609)

Tsuen, Kam Tin, Yuen Long

Lot 1750A2 RP in D.D. 107, Shui (Application No. A/YL-KTN/610)

Mei Tsuen, Kam Tin, Yuen Long

Site Area : 4,111.3 m² (Application No. A/YL-KTN/609)

2,340.2 m² (Application No. A/YL-KTN/610)

<u>Lease</u> : Block Government Lease (demised for agricultural use)

<u>Plan</u> : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9

Zoning : "Agriculture" ("AGR")

<u>Application</u>: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm)

for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the two application sites (the Sites) for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years. According to the Notes of the OZP, 'Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)' use is a Column 2 use within the "AGR" zone, which requires permission from the Town Planning Board (the Board). The Sites are currently covered by grass (**Plans A-2 and A-4**).
- 1.2 For Application No. A/YL-KTN/609, according to the applicant, the proposed development involves 4 one-storey temporary structures for reception and learning centre, farm lounge, electric meter room and farm tools storage which will be covered by open sheds (3.5m or lower) with total covered area of 213m².

The farming area is 2,905.21m² (i.e. 70.7% of the total site area) while the paved area is 1,209.09m² (i.e. about 29.3% of the total site area). Five private car parking spaces will be provided on Site.

- 1.3 For Application No. A/YL-KTN/610, according to the applicant, the proposed development involves 4 one-storey temporary structures for reception and learning centre, farm lounge, electric meter room and farm tools storage as well as open sheds (3.2m or lower) with covered area of 164.7m². The farming area is 1,592.5m² (i.e. 68% of the total site area) and paved area is 747.7m² (i.e. about 32% of the total site area). One loading/unloading space for light goods vehicle will be provided at the Site.
- 1.4 The operation hours of both proposed hobby farms are from 9am to 6pm daily, including public holidays. No public announcement system will be used at the Site. The Sites are accessible via a local track branching off Chi Ho Road/ Castle Peak Road- Tam Mi/ San Tam Road. The site layout plans submitted by the applicant are at **Drawings A-1a** and **A-1b**.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 6.6.2018 (Appendices Ia and Ib)
 - (b) Further Information (FI) dated on 24.7.2018 and (Appendix Ic) 27.7.2018 in response to department comments (accepted and exempted from publication and recounting requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in section 9 of the Application Forms in **Appendices Ia to Ic**. They can be summarized as follows:

- (a) The proposed development is on temporary basis with no permanent buildings and the Site is easily reinstate, which will not jeopardize the long-term planning intention. Several applications in the vicinity for hobby farm have been approved by the Committee.
- (b) The proposed paved area will be removed after the expiry of the planning permission. The proposed drainage facilities will be properly maintained and no adverse traffic impact is anticipated. Impact on surrounding area will be minimized

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. 31) by posting site notice and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Sites are not subject to any active enforcement case. Should a material change of use be identified on site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

5. Previous Application

There is no previous application at the Sites.

6. <u>Similar Applications</u>

6.1 There are eleven similar applications (No. A/YL-KTN/394, 465, 474, 513, 516, 520, 535, 536, 538, 571 and 579) within the same "AGR" zone on the Kam Tin North OZP. Details of the applications are summarized in **Appendix II** and the location of the application sites is shown on **Plan A-1**.

Approved applications

- 6.2 Applications No. A/YL-KTN/465, 516, 535, 538 and 571 for temporary hobby farm (A/YL-KTN/535 included caravan holiday camp) for a period of 3 years near Cheung Kong Tsuen and Tai Kong Po (Plan A-1) were approved by the Committee with conditions on 3.7.2015, 18.3.2016, 13.1.2017, 23.12.2016 and 8.9.2017 respectively mainly for the reasons that the proposed developments were generally in line with the planning intention of the "AGR" zone; the use was not incompatible with the surrounding land uses; and the proposed development would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts.
- Applications No. A/YL-KTN/474, 513, 520, 536 and 579 for temporary hobby farm (A/YL-KTN/520 and 536 included caravan camp) for a period of 3 years for 4 sites near Fung Kat Heung and Shui Mei Tsuen (**Plan A-1**) were approved by the Committee with conditions on 7.8.2015, 18.3.2016, 27.5.2016, 13.1.2017 and 22.12.2017 respectively for similar reasons as those in paragraph 6.2 above.

6.4 However, applications No. A/YL-KTN/465, 474, 513, 516 and 538 were revoked on 3.4.2016, 7.8.2016, 8.2.2018, 18.12.2016 and 23.9.2017 due to non-compliance with approval condition in relation to submission and/or implementation on landscape, drainage and fire services installation proposals.

Rejected application

6.5 Application No. A/YL-KTN/394 for proposed temporary field study/education centre and hobby farm for a period of 5 years was rejected by the Board on review on 14.6.2013 mainly on the grounds that the site was the subject of unauthorized land filling and the filling material were not suitable for cultivation; there was no detailed information regarding the design and operation of the proposed development particularly the hobby farm, field study/education centre and the office with porch; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding areas; and approving the application would set an undesirable precedent, and the cumulative effect of which would result in a general degradation of the rural environment of the area.

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

- 7.1 The Sites are:
 - (a) accessible via a local track branching off Chi Ho Road to its south (**Plan** A-1); and
 - (b) currently covered by grass.
- 7.2 The surrounding areas of the Sites are rural in character predominated by active/fallow agricultural land, unused/vacant land, parking of vehicles, dog training centres, ponds and residential dwelling/structure. Application No. A/YL-KTN/609 is located at the north of Application no. A/YL-KTN/610 across a nullah/ local track.
 - (a) to their east are dog training centre, parking of vehicles and pond. Further east is a dog training centre with planning permission (application No. A/YL-KTN/489) and unused land. There is a residential dwelling/structure at the northeast;
 - (b) to their north and west are active/fallow agricultural land and unused land; and
 - (c) to their south is unused/vacant land.

8. Planning Intention

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. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Sites comprise Old Scheduled Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) The Sites are accessible to San Tam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Sites.
 - (c) The Sites fall within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
 - (d) Should the applications be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
 - (a) He has no comment on the applications from the traffic engineering point of view.

- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Sites are connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):
 - (a) HyD does not and will not maintain any access connecting the Sites and Chi Ho Road/Castle Peak Road-Tam Mi.
 - (b) Adequate drainage measures should be provided to prevent surface water running from the Sites to the nearby public roads and drains.

Environment

- 9.1.4 Comments of the Director of Environmental Protection (DEP):
 - (a) According to the applicant, the proposed hobby farms under the subject two planning applications would not involve public announcement system, portable loudspeaker or any form of audio amplification system.
 - (b) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.
 - (c) The applicant is also advised 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 minimize any potential environmental nuisance.
 - (d) It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and

provide necessary mitigation measures to prevent polluting the watercourse and pond adjacent to the Sites. Adequate supporting infrastructure / facilities should be provided 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 shall 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".

(e) There was no complaint received in the past 3 years for the Sites.

Nature Conservation and Agriculture

- 9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) He has no strong view against the applications from agriculture point of view, nothing that the applicant agreed to remove the proposed pavement when the applications expired.
 - (b) Should the applications be approved, appropriate reinstatement condition(s) should be imposed in order to minimize the impact of pavement at the Sites.
 - (c) As the pond to the east and drainage channel adjacent/ to the south of the Sites support some wetland-dependant birds, the applicant shall adopt necessary measures to avoid disturbance and pollution to the ponds, drainage channel and the watercourse to the east of the Sites.

Landscape

- 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) She has no objection to the applications from the landscape planning point of view.
 - (b) The Sites fall within areas zoned "AGR" at Shui Mei Tsuen. The surrounding area is in rural landscape character occupied by village houses, agricultural land, ponds and tree groups. The proposed use is considered not incompatible with existing landscape setting.
 - (c) According to site inspection in June 2018, the Sites are fallow

- agricultural land for Application No. A/YL-KTN/609 and vacant without significant vegetation for Application No. A/YL-KTN/610. Further significant adverse impact on surrounding landscape character and existing landscape resources due to the proposed use is not expected.
- (d) Should the applications be approved, approval condition on submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board should be included in the planning permission.

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 applications be approved, approval conditions requiring the submission and implementation of a drainage proposal for the developments to the satisfaction the Director of Drainage Services or of the Board should be included.

Building Matters

- 9.1.8 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) are to be carried out on the Sites, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the applications.
 - (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's 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 Sites

under the BO.

- (d) The Sites shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Sites do not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

- 9.1.9 Comments of the Director of Fire Services (D of FS):
 - (a) He has no in-principle objection to the applications 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 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 of where the proposed FSI to be installed should be clearly marked on the layout plans.
 - (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.

Water Supply

- 9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
 - (a) He has no objection to the applications.
 - (b) For provision of water supply to the developments, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Environmental Hygiene

- 9.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):
 - (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the developments, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
 - (b) Proper licence / permit issued by FEHD is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
 - (c) If the proposals involve any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

His office has not received comment from the locals on the applications.

- 9.2 The following Government departments have no comment on the applications:
 - (a) Director of Electrical and Mechanical Services (DEMS);
 - (b) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD); and
 - (c) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 15.6.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.7.2018, four objecting comments from Kadoorie Farm & Botanic Garden Corporation, Designing

Hong Kong and the Hong Kong Bird Watching Society and a general public for both application Nos. A/YL-KTN/609 (**Appendices III-1, III-2, III-4 and III-5**) and A/YL-KTN/610 (**Appendices III-1, III-3 to III-5**) were received mainly on the grounds that an application for temporary Field Study/Education Centre and Hobby Farm (Application no. A/YL-KTN/394) in the vicinity of the Sites was rejected by the Committee; the applications would be renewed regularly despite they are applied for temporary basis; approval of the applications would set undesirable precedent; adverse environmental and ecological impacts on the nearby watercourse and natural habitats if the sewerage from the proposals are not properly treated; the Sites are not close to Mass Transit Railway and parking provision is suspected; the applications may involve 'destroy first, development later' case and 'fake farming'; the surrounding area is under active cultivation and paving should be prohibited while rehabilitation for cultivation should be encourage (for Application no. A/YL-KTN/609); and the Board should control 'leisure farming' (for Application No. A/YL-KTN/610).

11. Planning Considerations and Assessments

- 11.1 The proposed developments under Applications No. A/YL-KTN/609 and 610 are both for proposed temporary hobby farm in "AGR" zone. According to the applicant, about 70.7% and 68% of the Sites for Applications no. A/YL-KTN/609 and 610 respectively will be farming area. The proposed use is considered generally in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. AFCD has no strong view against the applications from agricultural point of view. In view of the above, it is considered that approval of the applications on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the "AGR" zone.
- 11.2 The proposed temporary hobby farms are not incompatible with the surrounding land uses which are rural in character predominated by active/fallow agricultural land, unused/vacant land, pond and residential dwelling/structure. Ten similar applications for hobby farm (three with caravan camp) were approved by the Committee on the same "AGR" zone (paragraph 6 and **Plan A-1** refer).
- In view of the nature, the proposed development would unlikely cause significant adverse traffic, landscape or drainage impacts and relevant departments consulted including C for T, CTP/UD&L of PlanD, CE/MN of DSD, CE/C of WSD and D of FS, also have no adverse comment on the application. To avoid possible noise nuisance arising from the use of loudspeakers/ amplifier, etc. and to minimise other possible environmental nuisance, approval conditions restricting the operation hour and prohibiting the use of public announcement system is recommended in paragraph 12.2(a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the environmental mitigation measures as set out in the latest "Code of Practice on Handling the

- Environmental Aspects of Temporary Uses and Open Storage Sites" in order to alleviate any potential impact. The concerns / technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2 (c) to (j) below.
- 11.4 Four objecting public comments for each of the two applications were received during the statutory publication period for reasons as mentioned in paragraph 10 above. In this regard, temporary approval would not jeopardize the long-term planning intention. For the rejected Application No. A/YL-KTN/394 (as mentioned by the commenters), it involved unauthorized land filling comprising construction wastes and filling materials which were not suitable for cultivation, and failed to demonstrate that the development would not generate adverse landscape and drainage impacts. In the current application, relevant departments have no adverse comments. The planning consideration and assessments above are also relevant.

12. Planning Department's Views

- Based on the assessments made in paragraph 11 and having taking into account the public comments in paragraph 10, PlanD considers that the proposed temporary place of recreation, sports or culture (hobby farm) under Applications no. A/YL-KTN/609 and 610 could be tolerated for a period of 3 years.
- Should the Committee decide to approve the applications, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 3.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00pm and 9:00am, 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, as proposed by the applicant, is allowed to be used on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (e) the submission of 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 <u>3.2.2019</u>;
- (f) in relation to (e) above, the implementation of 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 3.5.2019;
- (g) 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 3.2.2019;
- (h) in relation to (g) above, the implementation of 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 3.5.2019;
- (i) the submission of 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 <u>3.2.2019</u>;
- (j) in relation to (i) above, the provision of fire service installations 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 <u>3.5.2019</u>;
- (k) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) 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
- (m) 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 IV**.

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

the proposed development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good agricultural land/ farms/ fish

ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. <u>Decision Sought</u>

- 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 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.
- 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.

14. Attachments

Appendices Ia and Ib

Application form with plans received on 6.6.2018

Appendix Ic

FI dated on 24.7.2018 and 27.7.2018

Appendix II

Similar applications within the same "AGR" zone in the vicinity

on the Kam Tin North OZP

Appendices III-1

to III-5

Public comments received during the statutory publication period

Appendix IV

Advisory clauses

Drawing A-1a

Layout Plan for Application No. A/YL-KTN/609

Drawing A-1b

Layout Plan for Application No. A/YL-KTN/610

Plan A-1

Location Plan with Similar Applications

Plan A-2

Site Plan

Plan A-3

Aerial Photo

Plans A-4a to 4b

Site Photos

PLANNING DEPARTMENT AUGUST 2018