

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/650

<u>Applicant</u>	: Mr. TANG Tsz Mo represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1866 S.A RP (Part), 1866 S.B RP, 1876 S.B (Part) and 1905 RP (Part) in D.D. 107, and Adjoining Government Land, Sha Po, Kam Tin, Yuen Long
<u>Site Area</u>	: about 4,507 m ² (including Government Land of about 15m ² (about 0.3%))
<u>Lease</u>	: New Grant for Agricultural Purpose
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Comprehensive Development Area (1)” [restricted to a maximum plot ratio of 1.2 and a maximum building height of 16 storeys]
<u>Application</u>	: Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (excluding container vehicle) for a period of five years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use in the “CDA” zone which requires planning permission from the Town Planning Board (the Board). The Site is the subject of 4 previous applications for different uses, namely pond filling for plant nursery, open storage, manufactory and comprehensive residential development submitted by different applicants. The latest application for proposed comprehensive residential development of the whole “CDA(1)” zone was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.3.2019. The Site is currently paved, fenced and used for the applied use without valid planning permission (**Plans A-2 to A-4b**).

- 1.2 According to the applicant, a total of 132 parking spaces for private car are provided on the Site. Besides, a one-storey structure of 3m high and floor area of 15.25m² for caretaker office is provided at the Site. Only private car will be allowed to enter/exit the Site. The operation hour is 24 hours daily, including public holidays. The Site is accessible to Castle Peak Road-Tam Mi via a local track. The layout plan and vehicular access plan submitted by the applicant are in **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans and supplementary statement received on 14.3.2019 **(Appendix I)**
 - (b) Further Information (FI) received on 28.6.2019 providing an Traffic Impact Assessment (TIA) **(Appendix Ia)**
[not exempted from publication]
 - (c) FI received on 17.10.2019 providing responses to departmental comments **(Appendix Ib)**
[exempted from publication]
 - (d) FI received on 25.10.2019 providing responses to departmental comments **(Appendix Ic)**
[exempted from publication]
 - (e) FI received on 5.12.2019 providing responses to departmental comments **(Appendix Id)**
[exempted from publication]
- 1.4 At the request of the applicant, the Committee agreed to defer consideration of the application on 3.5.2019 and 16.8.2019 to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant had submitted FI in response to departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement in **Appendix I** and FIs in **Appendices Ia to Id**. They can be summarized as follows:

- (a) Temporary planning approval will not frustrate the long-term planning intention of the “CDA(1)” zone. The proposed use is to serve the demand of nearby residential development, namely Park Yoho, and workshop/open storage activities. The car parking spaces will be rented on monthly basis.

- (b) The proposed development is compatible with the nearby developments. No land filling/ excavation works will be involved in order to reduce the adverse impact to the surrounding environment.
- (c) According to the submitted TIA, the development will not induce adverse traffic impact to the nearby road network. Sufficient maneuvering space will be provided on-site and no vehicle will queue back to or reverse onto/from areas outside the Site. Traffic within the Site will be managed by on-site staff. The development will also help to alleviate illegal parking problem.
- (d) Should the application be approved, the applicant will provide landscape, drainage and fire service installations (FSIs) facilities to the satisfaction of relevant departments.
- (e) Upon the expiry of the planning permission, the Site will be reinstated to amenity area. Thus, approval of the application will not set an undesirable precedent.

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

The applicant is not a “current land owner” of the private land portion of the Site 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 registered mail to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land (GL) portion of the Site, TPB PG-No. 31A is not applicable.

4. Background

The Site was subject to planning enforcement action (No. E/YL-KTN/489) against an unauthorised development (UD) involving parking of vehicles. Enforcement Notice (EN) was issued on 19.3.2019 to the concerned parties requiring discontinuation of the UD. Compliance Notice was issued on 26.8.2019. The Site is currently no subject to any active enforcement case.

5. Previous Applications

5.1 The Site involves 4 previous applications for pond filling for plant nursery, open storage, manufactory and comprehensive residential development submitted by different applicants. The sites of the previous applications partly overlap with the Site. Except Application No. A/YL-KTN/604, all the applications were considered under the then “Undetermined” (“U”) zone¹. Details of the

¹ The site was rezoned from “U” to “CDA(1)” on the draft Kam Tin North OZP No. S/YL-KTN/8 gazetted on 9.5.2014.

applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

- 5.2 Application No. A/YL-KTN/91 for proposed pond filling for a plant nursery was approved with conditions by the Committee on 30.7.1999 mainly for the reasons that it was compatible with the surrounding land uses; relevant departments had no adverse comment on the application; and the fish pond in the area would be filled for the future “CDA” development and railway project.
- 5.3 Applications No. A/YL-KTN/163 for proposed temporary open storage of construction materials and No. A/YL-KTN/295 for temporary waste tires recycling manufactory both for a period of 3 years were rejected by the Committee on 7.2.2003 and 26.9.2008 respectively mainly on the grounds that the proposed development did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-Up Uses’ in that residential dwellings located to its close proximity would be susceptible to adverse environmental nuisances (for A/YL-KTN/163 only); and there was insufficient information to demonstrate that the proposed development would not cause adverse traffic, environmental, drainage and landscaping impacts on the surrounding areas.
- 5.4 The last Application No. A/YL-KTN/604 is of a very different nature and scale covering a much larger site. It is for proposed comprehensive residential development with minor relaxation of plot ratio and building height restrictions. It was approved with conditions by the Committee on 22.3.2019. The development involves a total of 28 residential towers of maximum 18 storeys (including 1 level of basement carpark) for 3,891 flats with commercial, public transport interchange and a day care center for the elderly and a reserved primary school site at total plot ratio of 1.254 (**Plan A-5**). It will be developed in two phases, i.e. Phase A (targeted completion at 2023) and Phase B (to be developed as a later phase depending on land acquisition progress) at the southern and northern part of the “CDA(1)” zone respectively. The Site of the current application falls within Phase B of the proposed comprehensive development.

6. **Similar Application**

There is a similar application for proposed temporary public vehicle park (excluding container vehicle) for a period of 5 years to the southeast of the Site straddling the same “CDA(1)” zone and the adjoining “CDA” zone on the OZP. The application was rejected by the Committee on 2.11.2018 for the reason that the applicant failed to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding area, including insufficient information on trip generation and queuing space. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1a**.

7. **The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

- 7.1 The Site is:

- (a) paved, fenced and used for a carpark without valid planning permission; and
- (b) accessible via a local track (about 300m) leading from Castle Peak Road-Tam Mi.

7.2 The surrounding areas are intermixed with residential development, open storage yards, parking of vehicles and vacant/unused land. The open storage yards and parking of vehicles are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to its north and west is a completed residential development namely Park Yoho;
- (b) to its east is an open storage yard and vacant land; and
- (c) to its south and southwest are some residential dwellings/structures, open storage yard, parking of vehicles and vacant land.

8. Planning Intention

The “CDA(1)” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

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 Site comprises GL and various private lots held under New Grant for agricultural purpose.
- (b) No permission is given for occupation of GL (about 15m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.

- (c) The Site is accessible from Castle Peak Road – Tam Mi via 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 Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the planning application, the lot(s) owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL. 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 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 LandsD.

Traffic

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

- (a) He has no comment on the application 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 reserve onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). 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 Site and Castle Peak Road – Tam Mi.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

Nothing that the Site is paved and disturbed, he has no comment on the application. Nevertheless, should the application be approved, the applicant is advised to adopt appropriate measures to avoid causing disturbance or pollution to the adjacent watercourse.

Environment

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

Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

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 application from the landscape planning perspective.
- (b) According to the aerial photos between 2008 and 2018, there have been significant changes of land use in the surrounding area. Based on the latest aerial photo taken in 2018, the surrounding area was composed of medium-rise residential buildings, village houses, hard-paved areas with temporary structures and scattered tree groups. Kam Tin River and ponds were located in the southwest of the Site. Existing trees were found along Castle Peak Road - Tam Mi outside the Site. The applied use is considered not incompatible with the landscape setting in proximity.

- (c) Based on the site visit in April 2019, the Site was fenced off, hard paved and in operation. No existing trees were found within the Site. Further adverse landscape impact arising from the applied use is not anticipated.
- (d) In consideration that the Site is not located at landscape sensitive areas and existing trees outside the Site act as a landscape buffer, it is opined that the landscape condition is not recommended, should the application be approved.

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 development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of the drainage proposal for the development should be included in the planning permission.

Fire Safety

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

- (a) He has no in-principle objection to the proposal subject to fire service installations (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 of where the proposed FSIs 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 Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 by the Building Authority for

the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.

- (b) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (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 Site under the BO.
- (d) Before any new building works (including containers / open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site 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.
- (f) If the Site does 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.

District Officer's Comments

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

He has not received any comment from the locals and has no comment on the application.

9.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager(West), Civil Engineering and Development Department;
and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

The application and subsequent FI submitted by the applicant were published on 22.3.2019 and 9.7.2019 respectively. During the first three weeks of the statutory public inspection period, 4 comments from a Yuen Long District Council member and three individuals were received (**Appendices IV-1 to IV-4**). All comments object to the application mainly on the grounds that the Site should not be used for parking to serve the adjoining private housing estate; the usage of the existing carpark at the Site is low; the proposed residential development covering the Site would provide sufficient car parking spaces to serve the residents; the proposed at-grade carpark with large site area is inefficient land use; approval of the application would allow the property owner to delay the development of the area; and the increased vehicular traffic would affect safety of the villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary public vehicle park (excluding container vehicle) for a period of 5 years at the “CDA(1)” zone. The planning intention of the “CDA” zone is primarily for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The public vehicle park is not in line with the planning intention of the “CDA” zone. The whole “CDA(1)” zone is covered by a proposed comprehensive residential development (No. A/YL-KTN/604) approved by the Committee on 22.3.2019 and the Site falls within Phase B of the proposed development with no concrete development programme. It is considered that approval of the application on a temporary basis of 5 years would not jeopardize the implementation of the approved comprehensive residential development covering the “CDA(1)” zone.
- 11.2 The development involves 132 parking spaces for private car with a one-storey (3m) structure and is considered not incompatible with the surrounding areas which are mainly mixed with residential development, open storage yards, parking of vehicles and vacant/unused land. According to the applicant, the public vehicle park is to serve nearby residents.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS, and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any potential environmental nuisance, approval conditions restricting the types of vehicles are recommended in paragraph 12.2 (a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2 (d) to (i) below.

- 11.4 The Site is the subject of four previous applications submitted by different applicants for pond filling for plant nursery, open storage, manufactory and comprehensive residential development uses, which are not the same use as the current application. A similar application for temporary public vehicle park (excluding container vehicle) for a period of 5 years to the southeast of the Site straddling the same “CDA(1)” zone and the adjoining “CDA” zone was rejected by the Committee on 2.11.2018 on the ground that the applicant fails to demonstrate that the proposed development would not cause adverse traffic impact on the surrounding area, including insufficient information on trip generation and queuing space. The current application is subject to different circumstances as C for T has no objection to the public vehicle park use at the Site.
- 11.5 Four public comments were received during the statutory publication period objecting to the application as detailed in paragraph 10 above. In this regard, the departmental comments as well as planning assessments and considerations above are relevant.

12. Planning Department’s View

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the temporary public vehicle park (excluding container vehicle) for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 13.12.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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;
- (b) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that 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;

- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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 13.6.2020;
- (f) in relation to (e) 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 13.9.2020;
- (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 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 13.6.2020;
- (i) in relation to (h) above, the implementation of 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 13.9.2020;
- (j) if any of the above planning conditions (a), (b), (c), (d) 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; and
- (k) if any of the above planning conditions (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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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

the development is not in line with the planning intention of the "CDA(1)" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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

14. Attachments

Appendix I	Application form with plans and supplementary planning statement received on 14.3.2019
Appendix Ia	FI received on 28.6.2019
Appendix Ib	FI received on 17.10.2019
Appendix Ic	FI received on 25.10.2019
Appendix Id	FI received on 5.12.2019
Appendix II	Previous applications covering the Site on the Kam Tin North OZP
Appendix III	Similar application within the same “CDA(1)” zone on the Kam Tin North OZP
Appendices IV-1 to IV-4	Public comments received during statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1a	Location Plan within Similar Application
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

**Plans A-4a and
A-4b**

Site Photos

Plan A-5

Location of Applied Use on Master Layout Plan of Application No.
A/YL-KTN/604

**PLANNING DEPARTMENT
DECEMBER 2019**