

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/432

<u>Applicant</u>	: Mr. CHAN Yiu Fai represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 1739 RP (Part) and 1740 in D.D. 118 and Adjoining Government Land, Tong Tau Po, Yuen Long, New Territories
<u>Site Area</u>	: 2,300m ² (about) (including 240m ² of Government land (GL))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Retail and Wholesale Shop of Metal for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary retail and wholesale shop of metal for a period of 3 years (**Plan A-1a**). According to the Covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zones 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. The Site is currently occupied by a vacant structure (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in 3 previous applications (No. A/DPA/YL-TT/51, A/YL-TT/392 and A/YL-TT/410) (**Plan A-1b**) for permanent/ temporary warehouse use. The last application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017. Details of the previous applications are at paragraph 5 below and **Appendix II**. Compared with the last application, the current application is submitted by a different applicant for different use on a similar site with different development parameters.

1.3 The Site is accessible from Tai Shu Ha Road East to its west via a local track (**Plan A-2**). According to the applicant, no workshop activity is proposed and 2.5m high galvanized sheets will be erected along the site periphery to differentiate the Site from the adjacent lots. Tree preservation measures have been proposed by the applicant, including no open storage and parking of vehicle will be carried out within 1m diameter of all the trees within the site boundary, removal of the climber and weeds if any, irrigating the trees at regular interval and replacing dead tree, if any. Plans showing the Site with lot index, site layout, proposed landscape plan and proposed drainage plan submitted by the applicant are at **Drawings A-1 to A-4**.

1.4 The major development parameters of the application are as follows:

Site Area	About 2,300m ² (including 240m ² of GL)
Total Floor Area (Non-domestic)	About 3,476m ²
No. of Structures and Height of Structures	3 (for retail and wholesale shop of metal (not exceeding 11m, 2 storeys), toilet (not exceeding 3m, 1 storey) and pump room and water tank (not exceeding 4m, 1 storey) uses)
Loading/Unloading Spaces	2 for medium/heavy goods vehicles
Operation Hours	7:00 a.m. to 7:00 p.m., Mondays to Saturdays with no operation on Sundays and Public Holidays

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

- (a) Application Form received on 7.6.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary information received on 7.6.2018 clarifying the structure numbers with replacement page of the Supplementary Planning Statement (Figures 2 and 3) **(Appendix Ib)**
- (d) Further information received on 6.9.2018 providing responses to the Transport Department's comments **(Appendix Ic)**
[accepted and exempted from publication and recounting requirements]

1.6 On 3.8.2018, the Committee agreed to defer a decision on the application for 2 months, as requested by the applicant's representative. On 6.9.2018, further information was received (**Appendix Ic**) and the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of the Supplementary Planning Statement at **Appendix Ia** and further information at **Appendix Ic**. They can be summarized as follows:

- (a) The proposed development is a temporary use which would not jeopardize the planning intention of “AGR” zone.
- (b) The Site is adjacent to some similar uses such as open storage use at the other side of the road. The proposed development is compatible with the surrounding environment. Also, no operation will be held in sensitive hours. All the metal will be stored within an enclosed structure so that the retail and wholesale of metal would not become an eyesore to the surrounding environment. The loading/unloading of metal would not generate significant noise and it is short-lived.
- (c) Due to the close proximity to the “Open Storage” zone, there is a positive demand for metal for the construction of open shed and warehouse. The Site is an ideal location to meet the demand.
- (d) It is noted that similar shop and services use in “AGR” zone have been approved by the Board, such as applications No. A/NE-TKL/574, A/YL-KTS/724, A/YL-SK/216, A/NE-KLH/505 and A/NE-LYT/576. The Board is requested to deliver similar treatment to the current application.
- (e) There will be insignificant traffic, environmental and drainage impacts. It is remarkable that the proposed development would accrue a negligible increase in traffic flow even in peak hours because the Site will be available for the loading/unloading of just 2 medium/heavy goods vehicles. The proposed use would not generate excessive noise neither off-site nor on site. Noise generation activities namely loading/unloading of metal, parking of vehicles and starting of engine is short-lived and infrequent. For upgrading the environmental condition of the area, the access area at the site frontage and 5m strip of the area beyond the access gate is hard paved to avoid any fugitive dust impact due to vehicle movements, as well as the operation hours of the proposed development will be 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. Moreover, all the proposed drainage facilities will be provided and maintained by the applicant’s own expense. The surface channel will be cleaned at regular interval to ensure unhindered flow of surface runoff along the channel.

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 a notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was the subject of a planning enforcement case against an unauthorised development (UD) involving storage use. An EN was issued on 22.1.2018. Subsequent site inspection revealed that the UD had been discontinued. The compliance notice was issued on 10.10.2018. The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site was involved in 3 previous applications (No. A/DPA/YL-TT/51, A/YL-TT/392 and A/YL-TT/410) for permanent/temporary warehouse use. Details of the applications are summarized in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/DPA/YL-TT/51 was for permanent warehouse for storage of building materials covering the major part of the Site, which was zoned “Unspecified Use” at the time. The Committee on 18.3.1994 approved the application for a period of 3 years mainly on the consideration of in line with the planning intention of “Unspecified Use” zone which is to encourage in-situ upgrading of existing temporary structures into permanent houses or to upgrade the local environment; and not incompatible with the surrounding uses. Subsequently, the application for extension of time limit for commencement of development was rejected by the Board on 15.3.1996 on the grounds that (i) the extension of time limit for the temporary planning approval for one year was not in line with the planning intention of the “AGR” zone (the Site was rezoned from “Unspecified Use” to “AGR” zone on the draft Tai Tong OZP No. S/YL-TT/1 since 8.7.1994); and (ii) as the subject development was granted on a temporary basis up to 18.3.1997, the extension of one year from 18.3.1996 to commence the development would coincide with the expiry date of the temporary planning permission. The application was lapsed without commencement of development.
- 5.3 Applications No. A/YL-TT/392 and A/YL-TT/410 both for temporary warehouse for storage of vehicle parts for a period of 3 years covering slightly larger site were rejected by the Board on review on 24.2.2017, and by the Committee on 22.12.2017 respectively. They were rejected mainly on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate no adverse environmental and landscape impacts to the surrounding areas; and setting an undesirable precedent for similar applications within the “AGR” zone.
- 5.4 Compared with the last application (No. A/YL-TT/410), the current application was submitted by a different applicant for different use on a similar site with different development parameters.

6. Similar Applications

- 6.1 There are 2 similar applications (No. A/YL-TT/134 and 345) for various types of temporary shop uses within the subject “AGR” zone. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.

- 6.2 Application No. A/YL-TT/134 is for temporary shop for second hand electrical appliance and stainless steel kitchenwares with ancillary facilities for a period of 3 years. The planning application was rejected by the Board on review on 10.1.2003 mainly on the grounds that the use was not in line with the planning intention of the “AGR” zone; the use was not compatible with the surrounding rural land uses; and approval of the application would set an undesirable precedent for other similar uses to proliferate into the “AGR” zone. Subsequently, the applicant lodged an appeal to the Town Planning Appeal Board (TPAB) against the decision of the Board and the appeal was allowed by the TPAB (No. 5 of 2003) with conditions on 30.8.2003 for a period of 3 years mainly on the consideration that: (i) there was no evidence or any suggestion that any effective action would be taken to ensure the site and surrounding areas were to be reinstated for agricultural purposes; (ii) the applied use was not incompatible with the existing surrounding uses; (iii) there were no adverse departmental comments; (iv) the application should be considered on its own merits; and (vi) it was unclear whether there are other available storage areas accessible and suitable for the appellant’s purpose.
- 6.3 Application No. A/YL-TT/345 is for temporary shop for selling decoration material for a period of 3 years. The planning application was rejected by the Committee on 27.2.2015 mainly on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate no adverse environmental, landscape and drainage impacts to the surrounding areas; and setting undesirable precedent.

7. The Site and Its Surrounding Areas (Plans A-1a, A-2, A-4a and A-4b)

7.1 The Site is:

- (a) accessible from Tai Shu Ha Road East to its west via a local track (**Plan A-2**);
- (b) paved and partly fenced-off; and
- (c) currently occupied by a vacant structure (**Plan A-4a and A-4b**).

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) the surrounding area comprises mainly residential dwellings intermixed with warehouses/storages, open storage yards, vehicle parks/ parking of vehicles, car servicing centre, grave, cultivated agricultural land and vacant/unused land;
- (b) to its immediate east, southwest, northwest and in the vicinity are residential dwellings;
- (c) to its north and further northwest are cultivated agricultural land and vegetated slopes zoned “Conservation Area” (“CA”) on the OZP;

- (d) to its south across a local road is an area zoned “Open Storage” (“OS”) where some open storage yards, warehouses and a car servicing centre are found; and
- (e) the storages and vehicle parks/ parking of vehicles found within the “AGR” zone are mostly unauthorized developments subject to enforcement action taken by the Planning Authority.

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 Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) No permission is given for occupation of the Government Land (GL) (about 240m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible through Tai Shu Ha Road East via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. 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 portion. 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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) The land status of the access road/ leading to the Site from Tai Shu Ha Road East shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site 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) The vehicular access arrangement should be commented by the Transport Department.
- (b) His department does not and will not maintain any access connecting the Site and Tai Shu Ha Road East.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one to its immediate east, southwest and northwest) and the applied use will cause traffic of heavy vehicles (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant should also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage

Sites”.

Agriculture and Nature Conservation

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

- (a) The Site is a paved vacant land with a temporary structure. As the agricultural infrastructure such as road access and water source are available, the Site can be used as greenhouse cultivation or plant nursery. The Site possesses potential for agricultural rehabilitation. As such, the subject application is not supported from agriculture point of view.
- (b) Should the application be approved, however, the applicant is advised to ensure that the proposed development would not affect the existing trees on GL and “CA” zone to the north of the Site.

Landscape

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

- (a) He has reservations on the application from the landscape planning perspective.
- (b) The Site is located to the west of Sung Shan New Village in an area zoned “AGR” (**PlanA-1a**). The Site is subject to previous applications No. A/YL-TT/392 and 410 for various warehouse uses which were rejected by the Board on review on 24.2.2017 and by the Committee on 22.12.2017 respectively. The current application is seeking planning permission for temporary retail and wholesale shop of metal use for a period of 3 years.
- (c) With reference to the site photographs dated 15.6.2018 and the aerial photo of 2018, it is observed that the Site is hard paved with the majority of the Site occupied by a large temporary structure. Existing trees are observed to the north of the “AGR” zone. The Site is situated in an area of rural landscape character dominated by village houses, woodland and farms (both active and fallow), and vegetated slopes. To the north of the Site is an area zoned “CA”, while to the west is the “V” zone, and an area zoned “OS” is to the south across the road. The proposed use is incompatible with the planned use of the “AGR” zone. The warehouse use to the east and west of the Site are suspected to be unauthorized developments.
- (d) When comparing the aerial photo of 2010, 2013, and 2015, the landscape resources within the Site remain generally the same,

however gradual impact to the landscape resources and landscape character to the vicinity is observed. The “AGR” zone acts as a buffer between the “CA” and “OS” zones. Approval of the application may likely set an undesirable precedent attracting other similar incompatible uses to the “AGR” zone. The cumulative impact of which will result in the general degradation of the landscape character of the area, and diminishing the buffer to the “CA” zone.

- (e) The applicant is advised that the approval of the tree preservation and landscape proposal under s.16 submission does not imply approval of tree works such as pruning, transplanting and/or felling under lease. Tree works applications should be submitted direct to DLO under lease for approval.
- (f) The applicant is advised that a minimum soil provision of 1m (W) x 1m (L) x 1.2m (D) shall be provided for each tree and that there shall be no storage or stacking of objects and materials within 1m of any tree. Furthermore, precautions measures such as kerb and/or bollards should be provided to prevent damage to the trees.
- (g) The applicant shall be reminded of the importance of proper tree care. Useful information is available for reference in the Pictorial Guide for Tree Maintenance (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.
- (h) Should the application be approved, approval conditions requiring the submission and implementation of a landscape proposal are recommended.

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 applied development from the public drainage point of view.
- (b) The applicant should advise why u-channel is not provided at the southwestern side of the site. The invert levels of the proposed catchpits should be shown on the drainage plan for reference. The existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will

be made and obtain consent from the owner prior to commencement of the proposal works. In the case that it is a local village drains, DO/YL should be consulted. The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the captioned development. The cross section of the proposed hoarding/peripheral wall should be shown on the proposed drainage plan. The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.

- (c) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, implementation of the drainage proposal and maintenance of the implemented drainage facilities to the satisfactions 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 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 applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (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) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any applied use under the application.
 - (ii) 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.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings) 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 should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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.
 - (v) 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):

The local consultation was completed and his office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 15.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.7.2018, five public comments were received from the Kadoorie Farm and Botanic Garden Corporation (**Appendix IV-1**), the World Wide Fund For Nature Hong Kong (**Appendices IV-2**), two district councilors (**Appendices IV-3 and 4**) and one member of the public (**Appendix IV-5**). One district councilor raised no comment on the application. The others objected to the application mainly on the grounds of not in line with the planning intention of “AGR” zone; the structure on the Site being a suspected unauthorized development; setting an undesirable precedent; no change in condition since the previous application; and the proposed use being akin to storage use.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary retail and wholesale shop of metal at a site zoned “AGR” on the OZP. The planning intention of “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. The proposed development for shop use is not in line with the planning intention of the “AGR” zone. In this regard, DAFC does not support the application from agricultural point of view as the Site is suitable for agricultural uses such as greenhouse cultivation or plant nursery. There is no strong planning justification to support a departure from the planning intention of the “AGR” zone, even on a temporary basis.
- 11.2 The proposed development and scale (i.e. a major structure with GFA of 3460m² and BH of 2 storeys (11m)) are considered incompatible with the surrounding environment which mainly consists of residential dwellings, cultivated agricultural land and vacant/unused land. While there are some storages and vehicle parks/ parking of vehicles found within the “AGR” zone (**Plan A-2**), they are suspected unauthorized developments subject to enforcement action taken by the Planning Authority. Besides, the Site is located in close proximity to an area zoned “CA” to its further north (about 12m away) currently occupied by some trees and vegetated hillside (**Plans A-1a and A-2**).
- 11.3 DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, and environmental nuisance is expected. Besides, CTP/UD&L of PlanD has reservations on the application and considers that the approval of the application will set an undesirable precedent attracting other similar incompatible

uses to the “AGR” zone. The cumulative effect of approving such application would result in general degradation of the landscape character of the area and diminishing the buffer to the “CA” zone. In view of the above, the applicant fails to demonstrate that the applied development would not cause adverse environmental impacts on the surrounding areas.

- 11.4 Despite the previous application No. A/DPA/YL-TT/51 for warehouse for storage of building materials was approved by the Committee on 18.3.1994 for a period of 3 years, the Site was zoned “Unspecified Use” at the time. The application was lapsed on 19.3.1997 without commencement of development. Applications No. A/YL-TT/392 and A/YL-TT/410 for temporary warehouse for storage of vehicle parts for a period of 3 years covering slightly larger site were rejected by the Board on review on 24.2.2017, and by the Committee on 22.12.2017 respectively. They were rejected mainly on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate no adverse environmental and landscape impacts to the surrounding areas; and setting an undesirable precedent for similar applications within the “AGR” zone.
- 11.5 Other than the similar application (No. A/YL-TT/134) for temporary shop for second hand electrical appliance and stainless steel kitchenwares with ancillary facilities allowed by the TPAB with condition on 30.8.2003 for a period of 3 years, there has been no other similar approved applications within the subject “AGR” zone. The similar application for temporary shop use was allowed mainly in view of the specific circumstances (paragraph 6.2 refers). However, each planning application should be considered based on its individual merits and the planning circumstances at the time of consideration. For the current application, concerned departments as mentioned in paragraphs 11.1 and 11.3 above have adverse comments on the application. Furthermore, a similar application (No. A/YL-TT/345) for temporary shop for selling decoration material for a period of 3 years within the same “AGR” zone was rejected by the Committee in 2015. In view of the above, the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications to proliferate into the “AGR” zone. The cumulative effect of such application would result in a general degradation of the rural environment of the area.
- 11.6 There are five public comments (**Appendices IV-1 to IV-5**) received during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:
 - (a) the proposed development 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. There is no strong planning justification in the

submission for a departure from the planning intention, even on a temporary basis;

- (b) the applicant fails to demonstrate that the applied development would not generate adverse environmental impacts on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such application would result in general degradation of the rural environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 2.11.2021. The following conditions of approval and advisory clauses are also suggested for Members’ consideration:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 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) no workshop activities, as proposed by the applicant, shall be carried out on 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 provision of boundary fencing on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.5.2019;
- (f) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.5.2019;
- (g) in relation to (f) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 2.8.2019;
- (h) the submission of a revised 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 2.5.2019;
- (i) in relation to (h) above, the implementation of the revised 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 2.8.2019;

- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 2.5.2019;
- (l) in relation to (k) 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 2.8.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d) or (j) 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;
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (k) or (l) 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
- (o) 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 attached at **Appendix V**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to 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 reasons for rejection should be given to the applicant.

14. Attachments

- Appendix I** Application Form received on 7.6.2018
- Appendix Ia** Supplementary Planning Statement

Appendix Ib	Supplementary information received on 7.6.2018 clarifying the structure numbers with replacement page of the Supplementary Planning Statement (Figures 2 and 3)
Appendix Ic	Further information received on 6.9.2018 providing responses to the Transport Department's comments
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar Applications within the subject "AGR" Zone on the Tai Tong OZP
Appendices IV-1 to IV-5	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Plan with Lot Index
Drawing A-2	Site Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**