

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MTL/11

<u>Applicant</u>	: Hong Kong Arts and Culture Youth Association Limited represented by Maxtop Sky Limited
<u>Site</u>	: Lots 1219 (Part), 1222, 1223, 1226 (Part), 1228, 1230, 1242 (Part), 1243 and 1244 in D.D. 96 and adjoining Government Land (GL), Ma Tso Lung, New Territories
<u>Site Area</u>	: About 7,978m ² (including about 2,729m ² of GL, or about 34.2% of the Site)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan (OZP) No. S/NE-MTL/3
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years and associated filling of land at the application site (the Site), falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use within the “AGR” zone, and filling of land within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, partly hard-paved and partly covered with wild grasses and vegetation.
- 1.2 The Site is accessible from a local track leading to Ma Tso Lung Road (**Plan A-2**). According to the applicant, the Site generally comprises three outdoor farming areas with a total area of about 4,359m² (or about 54.6% of the Site) and a hard paving area of about 2,082m² (or about 26.1% of the Site) for manoeuvring of vehicles, footpaths, and delivery of farming tools, fertilisers and manure. In addition, the proposed use consists of 14 structures with a total floor area of about 1,349m² and building heights of not exceeding 4.5m (single storey) for agricultural education centres (with a floor area of 418m²), greenhouses (with a floor area of about 900m²) and a washroom and a storeroom (with a

total floor area of about 31m²)¹. The total farming area is about 5,259m² (or about 65.9% of the Site). One private car parking space (5m (L) x 2.5m (W)) and one light bus parking space (8m (L) x 3m (W)) are proposed within the Site. The operation hours of the proposed use are between 9:00 a.m. and 7:00 p.m. daily including public holidays. The Site would accommodate about 12 visitors per day and there will be three staff members working at the Site to support the hobby farm operation. According to the applicant, no loudspeaker or any form of audio amplification system is allowed to be used at the Site at any time. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 According to the applicant, an ingress/egress is proposed at the southeast of the Site (**Drawing A-1**), and the traffic management measures proposed by the applicant (**Appendices Ia and Ib**) include provision of sufficient space near the entrance within the Site for manoeuvring of vehicles to ensure no queuing back of vehicles outside the Site; and posting of a notice at a prominent location of the Site and erection of fencing around the Site to ensure pedestrian safety. A swept path analysis is also submitted in support of the application. In addition, a Geotechnical Planning Review Report is submitted by the applicant in support of the application. To mitigate potential slope instability, a 5m buffer zone from the unregistered man-made slope is established at the northeastern edge of the Site (**Drawing A-1**).
- 1.4 The applicant also applies for filling of land for 7,844m² (or about 98.3% of the Site)² with a depth of not more than 1.2m for agricultural and site formation purposes (**Drawing A-2**). Land filling works with a minimum width of 1.5m clear zone is proposed to mitigate potential impacts to existing trees located at the eastern portion of the Site. A Drainage Impact Assessment, with the provision of U-channels and catchpits at the Site, has been submitted by the applicant in support of the application. The intercepted stormwater will be collected by internal drainage system, and will be discharged to the natural stream to the northwest of the Site. The Site is located at least 3m away from the pond to the north of the Site (**Drawing A-1**). A 1m high concrete brick wall will be constructed along the northern site boundary to prevent disturbance to the pond. The applicant will be responsible for the maintenance of the proposed drainage facilities.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 12.9.2024 (**Appendix I**)
 - (b) Supplementary Planning Statement (SPS) (**Appendix Ia**)
 - (c) Further Information (FI) received on 30.12.2024* (**Appendix Ib**)
 - (d) FI received on 4.3.2025 and 5.3.2025# (**Appendix Ic**)
 - (e) FI received on 3.4.2025 and 8.4.2025* (**Appendix Id**)
 - (f) FI received on 22.4.2025, 23.4.2025 and 28.4.2025* (**Appendix Ie**)

* *accepted and exempted from publication and recounting requirements*

accepted but not exempted from publication and recounting requirements

¹ According to the applicant, the ten greenhouses and the agricultural education centre located at the western portion of the Site will be constructed on soil, while the agricultural education centre, wash room and store room located at the eastern portion of the Site will be constructed on concrete.

² According to the Notes of the OZP, no planning permission from the Board is required for filling of land for laying of soil not exceeding 1.2m in thickness for cultivation within the "AGR" zone. Since the three outdoor farming areas of about 4,359m² (or about 54.6% of the Site) will be filled by soil for cultivation purpose, no planning permission for the farming areas from the Board is required. According to the applicant, the hard paving area will be filled by concrete.

- 1.6 On 8.11.2024 and 28.2.2025, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application as requested by the applicant for two months each.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SPS and FIs at **Appendices I to Ie**, as summarised below:

- (a) the proposed use is in line with the planning intention of the “AGR” zone which is for agricultural and recreational purposes. Approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone;
- (b) the proposed use is designed to complement the rural aesthetic and is not expected to cause any adverse impact on the visual amenity of the locality;
- (c) the proposed use is compatible with the surrounding environment, which mainly comprises farmlands, vegetated areas, temporary structures and village houses; and
- (d) no significant adverse environmental impacts are anticipated. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (the COP) issued by Environmental Protection Department (EPD), and comply with the relevant mitigation measures and requirements.

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. 31B) by posting notice at the Site and sending notice to the Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection. For the GL within the Site, TPB PG-No. 31B is not applicable to the application.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) is relevant to this application. According to TPB PG-No. 12C, the western portion of the Site (about 72% of the site area) zoned “AGR” falls within the Wetland Buffer Area (WBA) (**Plan A-1**). Relevant extract of the Guidelines is at **Appendix II**.

5. Background

The Site is currently not subject of any active enforcement action.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Application

There is no similar application for the same use within the same “AGR” zone in the Ma Tso Lung and Hoo Hok Wai area in the past five years.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

8.1 The Site is:

- (a) currently vacant and partly covered by wild grasses and vegetation. A section of watercourse is found at the northeastern part of the Site;
- (b) sandwiched between the rural settlements of Ma Tso Kung Shun Yee San Tsuen (Ma Tso Lung Lutheran New Village) to the southeast and Ma Tso Lung San Tsuen to the north;
- (c) located to the immediate south of an existing pond; and
- (d) accessible from a local track leading to Ma Tso Lung Road.

8.2 The surrounding areas mainly comprise vegetated areas, orchards, tree clusters and temporary domestic structures. To the further east and north of the Site are densely vegetated slope zoned “Green Belt” (“GB”).

9. Planning Intention

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III and IV** respectively.
- 10.2 The following government department has concerns on the application.

Landscape

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

- (a) with reference to the aerial photo, the Site is located in an area of miscellaneous rural fringe landscapes landscape character comprising woodlands within the “GB” zones, ponds, scattered tree groups, vegetated areas and some temporary structures. There is a concern that approval of the application may alter the landscape character and degrade the landscape quality of the “AGR” zone, where the “GB” zone is in close proximity to the Site;
- (b) based on the site record, the Site is partly vacant and partly covered by wild grasses and self-seeded vegetation. Some trees of common species are observed within the Site;
- (c) it is stated that no Old and Valuable Trees or protected species will be affected, and land filling works with a minimum width of 1.5m clear zone is carefully designed to avoid potential impacts to existing trees. With reference to **Appendix I**, no tree felling is required. Significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated; and
- (d) her advisory comments are provided at **Appendix IV**.

11. Public Comments Received During Statutory Publication Periods

On 20.9.2024 and 14.3.2025, the application was published for public inspection. During the statutory public inspection periods, a total of 15 public comments were received (**Appendix V**). Amongst them, 13 comments including two from The Conservancy Association, one from the Kadoorie Farm and Botanic Garden and 10 from individuals object to the application. Major grounds of the objection are that the proposed use will cause adverse traffic and transport, ecological, and drainage impacts, as well as environmental nuisance and safety risks posed to nearby residents; there is lack of justification for the extent of land filling and tree felling within the Site; approval of the application will set an undesirable precedent of “destroy first, build later”; and no reinstatement of the Site upon expiry of the planning permission is proposed by the applicant. The remaining two public comments from a member of the North District Council indicate no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP (**Plan A-1**). While the proposed use is not entirely in line with the planning intention of the “AGR” zone which is 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, according to the applicant, about 5,259m² (or about 65.9% of the Site) will be used for farming area, DAFC has no strong view against the application from agricultural perspective. In view of the above and

taking into account the planning assessments below, there is no objection to the proposed use with associated filling of land on a temporary basis of three years.

- 12.2 The applicant applies for filling of land for 7,844m² (or about 98.3% of the Site) with a depth of not more than 1.2m (**Drawing A-2**). Filling of land within the “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from the public drainage viewpoint and environmental perspective respectively. As the Site is zoned “AGR”, an approval condition requiring reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.3 According to TPB PG-No. 12C, although the majority of the Site (about 72%) falls within WBA (**Plans A-1 and A-2**), planning applications for temporary uses are exempted from the requirement of ecological impact assessment, and consideration should be given to the compatibility of such use with any adjoining fish pond area and to other planning and environmental implications of the development. Noting that the Site is located in close proximity to the existing pond to the north of the Site (**Plan A-2**), the applicant states that there is at least 3m buffer separating the Site from the pond and plans to erect a 1m high concrete brick wall along the northern site boundary to prevent disturbing the pond (**Drawing A-1**). The Site, located at the fringe of WBA, is mainly used for farming-related purposes, which will not have a significant negative off-site disturbance impact on the ecological value of fish ponds. In this regard, DAFC has no adverse comment on the application from nature conservation perspective.
- 12.4 The proposed use is considered not entirely incompatible with the surrounding land uses which are rural in character with vegetated areas, orchards, tree clusters and temporary domestic structures (**Plans A-2 and A-3**). CTP/UD&L, PlanD advises that while approval of the application may alter the landscape character and degrade the landscape quality of the surrounding areas, no tree felling is involved and significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated.
- 12.5 To minimise any possible environmental nuisance, the applicants will be advised to follow the environmental mitigation measures as set out in the latest COP. Other relevant government departments consulted, including the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions and advisory clauses are recommended in paragraph 13.2 below and **Appendix IV** respectively.
- 12.6 Regarding the adverse public comments mentioned in paragraph 11, the government departments’ comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.

- 13.2 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 three years until 2.5.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised drainage impact assessment within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 2.11.2025;
- (b) in relation to (a) above, the implementation of the flood mitigation measures and drainage facilities 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 2.2.2026;
- (c) in relation to (b) above, the implemented flood mitigation measures and drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 2.11.2025;
- (e) in relation to (d) 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 2.2.2026;
- (f) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) upon expiry of the planning permission, the reinstatement of the Site, including the removal of fill materials and hard paving, and grassing of the Site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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

the proposed use with associated filling of land 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 such planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 12.9.2024
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 30.12.2024
Appendix Ic	FI received on 4.3.2025 and 5.3.2025
Appendix Id	FI received on 3.4.2025 and 8.4.2025
Appendix Ie	FI received on 22.4.2025, 23.4.2025 and 28.4.2025
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2025**