

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/342

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| <u>Applicant</u> | : Active Point Real Estate Investment Limited represented by Tai Wah Development Consultants Limited |
| <u>Site</u> | : Lots 3719 S.Q s.s.3 and 3719 S.Q RP (Part) in D.D. 104, Tai Sang Wai, Yuen Long |
| <u>Site Area</u> | : About 16,483 m ² |
| <u>Lease</u> | : Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/10 (currently in force) Draft Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/9 (at the time of submission) |
| <u>Zoning</u> | : “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) <i>[restricted to a maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park]</i> (no change on the current OZP) |
| <u>Application</u> | : Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities and Associated Filling of Land and Pond for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities and associated filling of land and pond for a period of three years at the application site (the Site), which falls within an area zoned “OU(CDWRA)” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of pond and/or land within “OU(CDWRA)” zone also requires planning permission from the Board. The Site is currently mostly occupied by warehouse structures without valid planning permission (**Plans A-2 to A-4b**).

- 1.2 According to the applicant, the application is to facilitate the relocation of a part of a business operation at a site (with an area of about 19,025m²) in Ngau Tam Mei (NTM) which will be affected by government project, i.e. Potential Development Area under the Land Use Review Study for NTM Area¹ (NTM development). The site of the affected operation is anticipated to be resumed for implementation of the NTM development.
- 1.3 The Site is accessible via a local track leading to Kam Pok Road West which connects to Kam Pok Road East (**Drawing A-1, Plans A-1 and A-3**). According to the applicant, the proposed temporary warehouse with a total floor area is about 25,394m² is for storage of miscellaneous goods (including packaged food, apparel, footwear, electronic goods and furniture, etc.), comprising one two-storey structure (about 13m in height) which will be fully enclosed for warehouses, site office and washroom, and one single-storey rain shelter (about 7m in height) for loading/unloading (L/UL) activities (**Drawing A-2**). All items will be stored within the enclosed structure, and no dangerous goods will be stored and no workshop or open storage activities will be carried out at the Site. Solid metal fencing of 2.5m tall is proposed along the boundary of the Site to minimise potential nuisance to the surrounding areas. Five private car parking spaces and five L/UL spaces for container vehicles will be provided within the Site. Sufficient manoeuvring space will also be provided within the Site to ensure that no vehicles will turn back outside the Site. The applicant also applies for regularisation of filling of pond with an area of about 592m² in a depth of about 0.5m (about 3.6% of the Site) and filling of land for the entire Site with concrete in a depth of not more than 0.2m up to a level ranging from +4.2mPD to +4.5mPD for site formation of structures, vehicular circulation, parking and L/UL spaces (**Drawing A-3**). The proposed operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The vehicular access plan, layout plan and land and pond filling plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 Majority of the Site is involved in a previous application No. A/YL-NSW/161 for temporary vehicle park (container vehicles, goods vehicles and private cars) which was rejected by the Board upon review in 2005 (**Plan A-1**) (details at paragraph 6 below).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supplementary planning (**Appendix I**) statement (SPS) received on 12.3.2025
 - (b) Further Information (FI) received on 6.5.2025 # (**Appendix Ia**)
accepted and exempted from publication and recounting requirements
- 1.6 On 2.5.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

¹ According to the latest programme, the works of NTM development is anticipated to commence in 2027.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at the Application Form, SPS and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use is to facilitate the relocation of a part of the applicant's affected brownfield operation (i.e. a storage yard) in NTM to a fully enclosed structure at the Site to make way for the implementation of NTM development, under which the site of the affected brownfield is anticipated to be partly resumed for Integrated Medical Teaching and Research Hospital and Third Medical School.
- (b) The applicant has conducted a thorough site search for relocation of the affected operations, but sites identified were considered not suitable due to various issues such as incompatibility with the surrounding areas, environmental concerns and land ownership issues. Approval of the current application can facilitate relocation of the affected operations and minimise the impact on implementation of government project.
- (c) Four planning applications for four sites (including the current application)² are submitted to facilitate the relocation of the same affected brownfield operation in NTM due to the difficulty in finding suitable site with sizable land area. While the four applications have a combined site area of about 3.9ha which is larger than the affected brownfield operation (site area of about 1.9ha), the applicant considers that there is substantial growth in demand for local indoor storage space, and the increase in site area can enhance operational efficiency with additional space. Besides, circulation space is required for each site.
- (d) The proposed use would support the transformation of brownfield operations in the New Territories, which echoes with the Government's intention to consolidate brownfield operations in a more land-efficient manner and enhance storage condition by protecting stored items from environmental harm.
- (e) The surrounding areas of the Site are mainly occupied by brownfield operations, including logistics centre and open storage yards, and village settlements in Tai Sang Wai. The proposed use is considered not entirely incompatible with the surrounding areas.
- (f) There is no known long-term planned development covering the Site. The proposed use is temporary in nature and approval of the current application will not frustrate the long-term planning of the "OU(CDWRA)" zone.
- (g) The proposed use will not create significant nuisance and traffic impact on the surrounding areas. The applicant will follow relevant requirements in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (the CoP) issued by Environmental Protection Department to minimise any potential environmental impacts. The applicant will

² Four planning applications (No. A/YL-NSW/341, 342, 345 and 346) are collectively submitted to facilitate the relocation of a brownfield operation affected by NTM development. Application No. A/YL-NSW/346 was approved by the Committee on 2.5.2025.

also strictly comply with all environmental protection/pollution control ordinances.

- (h) The applicant will reinstate the Site to an amenity area upon the expiry of planning approval period.

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 publishing notice in local newspapers and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

According to the Town Planning Board Guidelines for Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C), which is relevant to the application, the Site falls within the Wetland Buffer Area (WBA) and the relevant extract of the Guidelines is at **Appendix II**.

5. Background

- 5.1 The Site is not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion that there is unauthorized development at the Site, planning enforcement would be undertaken.
- 5.2 The Site was involved in six previous planning enforcement cases (No. E/YL-NSW/9, 166, 234, 235, 236 and 237) against workshop, container vehicle park, use for place for parking of vehicles and storage use with Enforcement Notice (EN) issued between 1997 and 2016 (**Plan A-2**). Compliance Notice for EN were subsequently issued for all six cases between 1998 and 2017.

6. Previous Application

Majority of the Site is involved in a previous application No. A/YL-NSW/161 for temporary vehicle park (container vehicles, goods vehicles and private cars) which was rejected by the Board upon review in 2005 mainly on the grounds that the proposed use was not in line with the planning intention of the “OU(CDWRA)” zone; the proposed use was not compatible with the rural character of the surrounding area and the adjacent land uses; the proposed use was not in line with the previous version of TPB PG-No. 12 and the previous version of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13) as there was inadequate information in the submission to demonstrate that the proposed use would not have significant impact on the environment, ecology, drainage, sewerage and/or traffic in the area; and approval of the application would set an undesirable precedent for similar applications leading to general degradation of the environment in the area and the ecological function of WBA

Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are four similar applications within the “OU(CDWRA)” zones on the OZP in the past five years. Details of the application is summarised at **Appendix III** and its location is shown on **Plan A-1**.
- 7.2 Four applications (No. A/YL-NSW/334, 343, 344 and 346) for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities and associated filling of land/pond at the same and the other “OU(CDWRA)” zones were approved by the Committee in April and May 2025, mainly on the grounds that the temporary approval would not frustrate the long-term planning intention; the proposed use was not entirely incompatible with the surrounding uses; and the proposed use would unlikely result in significant adverse environmental nuisance and impacts on the surrounding areas; the government departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions; and relevant policy bureau gave policy support or indicated supporting view to facilitate relocation of business operation affected by government projects.
- 7.3 Applications No. A/YL-NSW/341 and 345 (submitted by the same/a different applicant) for temporary warehouse (excluding dangerous goods godown) with ancillary facilities and associated filling of land/ and pond for a period of three years within the same “OU(CDWRA)” zone will be considered at the same meeting (**Plan A-1**).

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

- 8.1 The Site is:
- (a) accessible via a local track leading to Kam Pok Road which connects with Kam Pok Road East;
 - (b) currently mostly occupied by warehouse structures without valid planning permission; and
 - (c) located within the WBA of Deep Bay Area.
- 8.2 The surrounding areas comprise predominantly open storage yards, logistics centres and parking of vehicles. There are existing ponds located to the west of the Site within the “Conservation Area” (“CA”) zone. Residential development of Fairview Park within the “Residential (Group C)” (“R(C)”) zone on the Mai Po and Fairview Park Outline Zoning Plan and village settlement of Tai Sang Wai with playground and village office are located to the north and west respectively.

9. Planning Intention

- 9.1 The planning intention of the “OU(CDWRA)” zone is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay.
- 9.2 According to the Explanatory Statement of the OZP, filling of pond and land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In view of the conservation value of the area within the “OU(CDWRA)” zone, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/Departments

- 10.1 Apart from the bureau/departments as set out in paragraphs 10.2 and 10.3 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided in **Appendices IV and V** respectively.

- 10.2 The following government bureau supports the application:

Policy Aspect

10.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a brownfield operation that once operated within the project area of the NTM Land Use Review Study. The preliminary land use proposals for NTM were released in November 2024 for a two-month public engagement. Taking into account the public views received, the Project Team will carry out detailed design for the works, conduct Environmental Impact Assessment and formulate the implementation programme and Recommended Outline Development Plan, prior to subsequent statutory procedures, including zoning amendment; and
- (b) according to the applicant, the brownfield operation has vacated the site in NTM in view of the impending development project. A site search was conducted with a view to identifying a suitable site for longer-term re-establishment of the business, and the site under the current application is considered suitable. The application is supported from policy perspective.

- 10.3 The following government departments have adverse comment on or do not support the application:

Land Administration

10.3.1 Comments of the District Land Officer/Yuen Long, LandsD:

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 3719 S.Q s.s. 3 and 3719 S.Q RP (Part) in D.D. 104 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) unauthorised structure(s) within the said private lot covered by the planning application

LandsD has reservation on the planning application since there is/are unauthorised structure(s) or uses on the Lot Nos. 3719 S.Q s.s. 3 and 3719 S.Q RP (Part) in D.D. 104 which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD;

- (d) if the planning application is approved, the lot owner(s) shall apply to his office for a Short Term Waiver (STW) to permit the structure(s) erected within the said private lot(s). The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The application, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and
- (e) advisory comments are at **Appendix V**.

Environment

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

- (a) does not support the application from environmental planning perspective;
- (b) no objection to the associated land and pond filling works under the application;
- (c) based on the information provided, the proposed use would not involve dusty operation but it would involve use of heavy vehicles (i.e. container vehicles). According to our desktop review, there are residential buildings within 100m from the boundary of the Site. As such, according to the revised CoP, it is anticipated that the proposed use would cause environmental nuisance to the residential buildings nearby;

- (d) there were two environmental complaints received at the Site in the past three years regarding suspected water issues. All complaints were non-substantiated; and
- (e) advisory comments are at **Appendix V**.

11. Public Comments Received During Statutory Publication Period

On 14.3.2025, the application was published for public inspection. During the statutory public inspection period, two public comments were received from the Fairview Park Property Management Limited and an individual (**Appendix VI**) objecting to the application mainly on the grounds that the proposed use would generate heavy traffic flow to the Fairview Park Boulevard and Fairview Park Interchange, leading to exceedance in the capacity, and would cause adverse traffic safety impact; there is concern on the management and maintenance of Fairview Park Boulevard and the Government is suggested to resume this private road for public purpose; and the proposed use is incompatible with the “OU(CDWRA)” zone and the Site is not included under Category 2 of the Town Planning Board Guidelines No. 13G on Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities and associated filling of land and pond for a period of three year at the Site zoned “OU(CDWRA)” (**Plan A-1**). While the proposed use is not in line with the planning intention of the “OU(CDWRA)” zone, according to the applicant, the application is to facilitate the relocation of the business operation in NTM which will be affected by NTM development. In this regard, SDEV supports the application having considered that the current application is to facilitate relocation of an affected brownfield operations in NTM area. Besides, there is currently no known long-term development programme or proposal for the Site, and the proposed use could utilise the land resource to facilitate the relocation of the business operation affected by government projects. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “OU(CDWRA)” zone. Taking into account the above and the planning assessments below, Planning Department (PlanD) has no objection to the proposed use with associated filling of land and pond on temporary basis of three years.
- 12.2 Filling of pond and/or land within the “OU(CDWRA)” zone requires planning permission from the Board as they may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. In this regard, the Director of Agriculture, Fisheries and Conservation (DAFC), Chief Engineer/Mainland North of Drainage Services Department and DEP have no adverse comments on the pond and land filling from nature conservation, public drainage and environmental planning perspectives respectively. As the Site is zoned “OU(CDWRA)”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “OU(CDWRA)” zone and restore the greenery of the area is recommended

should the Committee decide to approve the application. The applicant has also committed to reinstatement of the Site to an amenity area upon expiry of the approval period given.

- 12.3 The Site is immediately surrounded by brownfield uses, such as open storage yards, logistics centres and parking of vehicles, and a playground within the same “OU(CDWRA)” zone as well as ponds within the “CA” zone to its west (**Plans A-1 to A-3**). Low-rise residential development (i.e. Fairview Park) within the “R(C)” zone and village settlement of Tai Sang Wai within the same “OU(CDWRA)” zone are located to the north and west (**Plans A-1 to A-3**). According to the applicant, the proposed use will be accommodated within a fully enclosed structure and solid metal fencing of about 2.5m tall would be erected along the boundary of the Site to minimise potential nuisance to the surrounding areas. The proposed use is considered not entirely incompatible with the surrounding areas. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that the proposed use is generally not incompatible with the surrounding landscape character and significant adverse landscape impact on landscape resources within the Site arising from the proposed use is not anticipated.
- 12.4 While the Site falls within the WBA of the TPB PG-No. 12C, planning applications for temporary uses are exempted from the requirement of ecological impact assessment. DAFC has no objection to the application from ecological perspective.
- 12.5 DEP does not support the application as the proposed use involves the use of heavy vehicles, which would cause environmental nuisance to the sensitive receivers nearby. Nonetheless, the vehicular access to the Site will not pass through major residential clusters in the areas and there was no substantiated environmental complaint concerning the Site in the past three years. Should the planning application be approved, the applicant will be advised to follow the CoP to minimise any potential environmental nuisance caused by the proposed use on the surrounding areas. The operation of the proposed use will also be subject to the relevant pollution control ordinances. Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other relevant government departments consulted, including the Commissioner for Transport (C for T) and Director of Fire Services have no objection to or no adverse comments on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below.
- 12.6 The Site is involved in a previous application No. A/YL-NSW/161 for temporary vehicle park (container vehicles, goods vehicles and private cars) which was rejected by the Board upon review in 2005 mainly on the grounds as summarized in paragraph 6 above. However, the circumstances and considerations of the current application are different in that all brownfield operation will be carried out within enclosed warehouse structure, solid metal fencing of 2.5m tall will be provided along the Site boundary to minimise potential environmental nuisance, policy support was given by SDEV and relevant government departments consulted have no adverse comments on or no objection to the current application

or their technical concerns could be addressed through advisory clauses as mentioned in paragraphs 12.1 to 12.5 above. The applicant has committed to reinstate the Site upon expiry of the approval period. There are also four similar applications in the “OU(CDWRA)” zones on the OZP approved in the past five years as stated in paragraph 7 above. Approving the current application for a period of three years is not in conflict with the previous decisions of the Committee.

- 12.7 Regarding the public comments on the application as detailed in paragraph 11, on traffic aspect, C for T has no adverse comment on the application from traffic engineering perspective and the management and maintenance responsibility of Fairview Park Boulevard is not relevant to the current application. Besides, TPB PG-No. 13G is not applicable to the current application which only involve warehouse use. The departmental comments and planning assessments above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, PlanD 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 23.5.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a drainage impact assessment before the commencement of any construction works or operations, including site formation/land and pond filling works, to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) in relation to (a) above, the provision of drainage facilities identified in the drainage impact assessment before the commencement of any operation to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) in relation to (b) above, the implemented 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 23.11.2025;
- (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 23.2.2026;

- (f) if the above planning condition (a) is not complied with before the commencement of any construction works or operations, including site formation/land and pond filling works, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if the above planning condition (b) is not complied with before the commencement of any operation, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) 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;
- (i) if any of the above planning condition (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
- (j) upon expiry of the planning permission, the reinstatement of the site, including the removal of hard paving and fill materials 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 V**.

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

the proposed use with associated filling of land and pond is not in line with the planning intention of the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" zone which is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong justification given in the submission for a departure from the 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 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

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| Appendix I | Application Form and supplementary planning statement received on 5.3.2025 |
| Appendix Ia | FI received on 6.5.2025 |
| Appendix II | Extract of TPB PG-No. 12C |
| Appendix III | Previous and Similar Applications |
| Appendix IV | Government departments' general comments |
| Appendix V | Recommended advisory clauses |
| Appendix VI | Public Comments |
| Drawing A-1 | Vehicular Access Plan |
| Drawing A-2 | Layout Plan |
| Drawing A-3 | Plan showing Filling of land and pond |
| Plan A-1 | Location Plan with previous and similar applications |
| Plan A-2 | Site Plan with enforcement cases |
| Plan A-3 | Aerial Photo |
| Plans A-4a to 4b | Site Photos |

**PLANNING DEPARTMENT
MAY 2025**